



# Towards military mobility?

by Daniel Fiott

The idea that the transportation of military personnel and equipment within Europe is still subject to *physical*, *legal* and *regulatory* barriers may seem odd, especially given the freedom of movement experienced under the Schengen Agreement and the nature of collective deterrence as defined by NATO's founding Washington Treaty. NATO has established a working group and developed customs formalities that are designed to promote military transportation across Europe. Yet the issue of military mobility is exercising policy minds in important ways. Concerned that administrative procedures were unnecessarily slowing down cross-border movements in the EU, a European Parliament report on defence in October 2016 called for a sort of 'military Schengen' for the rapid movement of defence forces, personnel, equipment and supplies in the EU (especially in the context of any possible invocation of the solidarity clause (Article 222 TFEU) by member states).

Since then, however, not only was an EU joint communication on improving military mobility published on 9 November 2017, but a dedicated action plan will be released by March 2018. The aim of these documents is to first fully map out the nature of the barriers to military mobility in Europe and to propose some concrete initiatives that can overcome them.

Transporting military personnel and equipment across Europe speaks to the needs of the Common Security and Defence Policy (CSDP), especially when it concerns passage through Europe and on to military operations in third states. Given that 22 EU member states are also part of NATO, the removal of barriers could also potentially support initiatives such as the Very High Readiness Joint Task Force (VJTF) – NATO's joint brigade-sized force that is predicated on rapid manoeuvrability across the alliance. The issue of mobility is also seen as an important element of the EU-NATO Joint Declaration signed in July 2016 and the EU Global Strategy. As the 14 November 2016 Council Conclusions on security and defence (see 14149/16) state, '[r]especting that CSDP missions and operations are deployed outside the Union, the EU can contribute from a security and defence perspective to strengthening the protection and resilience of its networks and critical infrastructure'.

Military mobility is not about ensuring freedom of movement for CSDP military operations on the territory of the EU – CSDP has no mandate for this. Rather, it is an acknowledgement that the EU could overcome the infrastructural, legal and regulatory barriers that hamper the transportation of military units in Europe based on



the experiences generated by policies connected to the single market. Therefore, military mobility is not only a response to the strategic needs of EU member states but it may also prove to be another test case in EU institutional coherence (i.e. by pulling together the directorates-general responsible for transport, home affairs, customs, health, social affairs, environment, etc.) and enhancing EU-NATO relations. The term ‘military Schengen’ does not sit well with NATO given that their non-EU allies station equipment and personnel in Europe. In this context, it is perhaps worth exploring some of the challenges that may face policymakers as they plan for military mobility in Europe.

## Games with frontiers

The transportation of military personnel and equipment across borders is a sensitive policy area and, consequently, today a range of *physical*, *legal* and *regulatory* barriers impede military mobility in Europe. Not only do such barriers slow travel times for military units (for a military exercise or an equipment exhibition, for example), but they often lead to time, finance and personnel resource costs. It should be noted, however, that the lines between physical, legal and regulatory barriers may be blurred, particularly where legal and regulatory hurdles are concerned.

*Physical* barriers relate to the physical capacity and infrastructure required to transport military equipment across borders. A first point of reflection is whether railways, seaports and runways can actually support the weight and size of military equipment. Consider, for example, that a commercial rail car suited to transporting military equipment (e.g. ‘Schnabel cars’) can have a maximum load bearing of approximately 200,000 kgs. In theory, this would mean that a single ‘Schnabel car’ can carry 3 battle-ready Leopard 2 tanks weighing approximately 62,000 kgs each. Commercial freight such as the transportation of motor vehicles does not put as much strain on rail infrastructure. For example, a single ‘flat car’ that is used to transport vehicles has an average maximum load bearing of only 70,000 kgs.

All of this means that an emphasis could be placed on dual-use lines of communication, ensuring standardised networks across borders and

resources for regular maintenance. Additionally, it has also become necessary to ensure that critical infrastructure is secure from sabotage, especially in an era of hybrid threats. As the Directive on the Security of Network and Information Systems (2016/1148) makes clear, operators of rail, road, water and air transport are required to improve security preparedness and capacities in case of cyber-attacks.

*Legal* barriers raise a number of issues including the protection of personnel and equipment when they cross borders, the protection of data, and the liability for military forces when they cross into another territory. One of the major issues moving forward will not just be to map out existing bottlenecks in physical transportation networks, but to also chart existing EU legislation that relates (or could relate) to the transportation of military personnel and equipment within Europe. Even if critical infrastructure such as railway lines, runways and seaports can cater for military units there remain legal issues related to cargo and liability. For example, Directive 2008/68/EC on the inland transport of dangerous goods has relevance for the transportation of military equipment because it seeks to ensure that member states install the capacity to load and unload dangerous cargo onto different types of vehicles.

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Additionally, the movement of troops across borders comes with added complications. Certain military personnel are still required to show official documentation such as passports when crossing borders in Europe, but the transit and host

state must take into consideration law enforcement and status of forces agreements when foreign (armed) troops enter their national territory. For example, should a foreign service member commit a crime in a transit or host nation a question of legal jurisdiction could arise – this is equally the case if the rights of a transiting troop are violated.

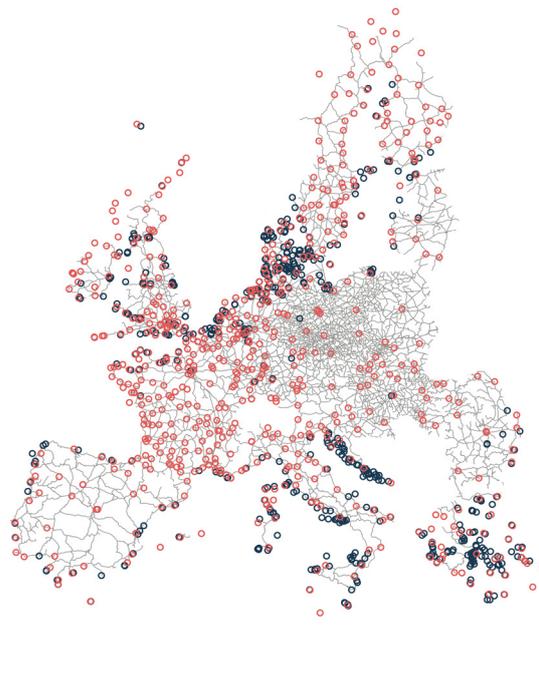
*Regulatory* barriers such as customs checks, information exchange (travel times, cargo loads, crew details, etc.) and broader cross-border coordination are relevant, too. While a Union Customs Code has been applicable since May 2016 that is designed to streamline cross-border transit and digitalise customs checks, the passage of military personnel and equipment is still subject to

## European transport infrastructure: strategic interconnections

Europe's strategic interconnections abound. While rail networks are particularly dense in Central and parts of Eastern Europe, the concentration of airports is higher in the centre and the north, and ports are plentiful in those member states with higher numbers of islands. Varying levels of efficiency in clearing customs add further complexity to the matter.

### Key

- Airport
- Seaport
- Railway



### Efficiency of customs clearance process



Data: EU Commission, Natural Earth, World Bank.

varying customs procedures across Europe. These procedures still remain despite the fact that the combination of 'NATO Form 302' (used to apply for customs clearances between NATO allies) and EU Regulation 3648/91 (which provides guidance on the use of Form 302 in the European Economic Area) has effectively abolished customs formalities at internal frontiers for the passage of NATO military equipment in most parts of Europe.

Despite such measures, however, physical and legal barriers still conspire to affect the efficiency of customs checks and procedures. Data detailing the efficiency of customs procedures for military transfers between EU member states is incomplete or unavailable. However, data collated by the World Bank shows that although the EU has taken steps to enhance the customs union, there are still subtle, yet important, variations in the customs efficiency of individual member states for customs transfers as a whole. The scale developed by the World Bank ranks 1 as low customs efficiency and 5 as high. The world average for customs efficiency stands at 2.71 in 2016 and the EU-wide average is 3.43. Yet within the EU, Western Europe is the most efficient at 3.90, compared with Northern Europe at 3.64, Southern Europe at 3.12 and Eastern Europe the least efficient at 3.09. While it is not fair to extrapolate the efficiency of military customs procedures from this data, it is fair to say that a number

of factors play a role in hindering how fast national customs systems in Europe can deal with cross-border transfer requests (of any kind).

## Connecting Europe's networks

The EU does not come at the issue of military mobility without any prior policy experience. For example, the European Commission's Trans-European Transport Network (TEN-T) initiative is designed to connect regional transport corridors together through a policy mixture of: 1) a budget of €22.4 billion up to 2020 under the Connecting Europe Facility and transport-relevant loans and strategic investments from the European Investment Bank to improve infrastructure; 2) a TENtec database designed to collate and share technical, geographical and financial data on transport linkages; and 3) the provision of technical support through the specialised Innovation and Networks Executive Agency (INEA). Additionally, sector-specific policies such as the Single European Sky initiative also display the way in which the Commission aims to ensure more efficient air traffic flow management by decreasing the level of fragmentation in European airspace. This is no easy task given that this airspace covers an area of 10.8 million km<sup>2</sup> and that the European air traffic control system stewards more than 26,500 flights per day.



The specific issue of military transportation across borders has also been developed by several EU bodies. In 2008, for example, the EU Military Staff (EUMS) developed a concept (see 10967/08) that provided a basis for the support of strategic movement and transportation for EU-led military operations. The EUMS' strategic concept specifically refers to the importance of movement across international borders (see 6.e. of the concept), although overall it centres on transportation within and immediately around the host nation/theatre of operations. This concept was developed further in 2012 by the EUMS through its concept on the reception, staging and onward movement of equipment for EU-led military operations (see 9844/12). This stated that the Force Commander of EU-led operations is responsible for identifying the availability of intra-theatre transportation assets, and that coordination with member states should consequently be initiated at the earliest stage to ensure that procedures and regulations for transit are in place (see point F.34).

Furthermore, following the 2011 agreement on the European Air Transport Fleet (EATF) – a pooling and sharing agreement that provides for a single pool of military transport aircraft – attention in the European Defence Agency (EDA) soon turned to removing obstacles to EU-registered military aircraft that wanted to fly over or land in the territory of another EU member state. It was soon recognised that a multitude of national procedures and clearances made it difficult to secure timely diplomatic clearances for military flights. To overcome such barriers, in 2012 the EDA initiated a Diplomatic Clearances Technical Agreement (DIC TA) designed to harmonise procedures for military flight overpasses and landings in participating member states – as of October 2015, 15 member states have signed up to DIC TA.

The agreement applies to most types of military aircraft and it centres on the issuance of a diplomatic clearance number (DCN) that allows safe passage through signatory member states without the need for multiple notifications in each transit and destination country visited. A DIC TA form is required before military flights and then logged in a web portal database. The DIC TA form gathers information such as the estimated time of departure and arrival, official points of contact, load information, aircrew details and aircraft specification. There are limits to the efficacy of the DIC TA, however, as the DCN that is eventually issued is not necessarily valid for dangerous cargo (as defined by the dangerous goods regulations of the International Civil Aviation Organisation and the International Air Transport Association) and one of the conditions is that all intelligence, surveillance, target acquisition

and reconnaissance (ISTAR) equipment such as radar, sensor and mapping technologies are set to 'off', 'safe' or 'inactive' mode during transit flights.

Building on such endeavours, in 2014 the EDA took the lead in developing a project that is designed to harmonise national procedures to allow troops and military equipment to more easily traverse Europe. The EU Multimodal Transport Hub (M2TH) system project is an agreement between 14 EU member states that aims to not only harmonise national regulations and procedures for cross-border transit but identify and promote dual-use military transport networks and infrastructure in Europe. Following the joint communication on military mobility, the EDA will also play a leading role in the work preceding the 2018 publication of an action plan. In this regard, the Agency established an expert working group in September 2017 that will identify and map out the major obstacles to military mobility in Europe and scope out the relevant actors at the national and EU-levels that are involved in such issues.

## Expanding the bottlenecks

Working towards the action plan on military mobility is, therefore, a challenging but necessary task. The immediate work could focus on mapping out transportation bottlenecks, identifying relevant EU legislation and bringing together all EU actors involved in easing defence transportation in Europe. However, perhaps the issue here is not so much ensuring EU institutional coherence as the relevant services are already working together on the 2018 action plan. Rather, a key challenge will be ensuring EU regulatory coherence with international and multinational initiatives such as the Movement Coordination Centre Europe (MCCE) and those developed by NATO.

Ensuring that the EU's initiatives can be of relevance to NATO is a particularly delicate issue: while NATO has a clear interest in EU support for military mobility in Europe, the importance of politics cannot be discounted. Although a clear strategic rationale exists for some member states to secure the speedy transportation of military equipment and personnel across Europe, the very idea that non-EU NATO allies could benefit from military mobility in Europe is problematic. This being said, there is clear impetus behind the EU's contribution to the protection of Europe through its regulatory and financial added-value.

***Daniel Fiott is the Security and Defence Editor at the EUISS.***

