

THE EU INTELLIGENCE SERVICE DILEMMA¹

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Abstract

Two decades after the definition of its Common Foreign and Security Policy, the European Union could move forward in this field by planning and implementing the full integration of Intelligence into the core of its global and smart power design. An inception scenario² could consider and eventually overcome Euroskepticism, Eurosklerosis, Eurozone meltdown, Sovereign Opt-outs or other negative trends. Three questions could be raised on such premises: is it a matter of stronger political will to deepen the empowerment process in accordance to the official claims for a safer and grander unional Europe, capable to foster enhanced understanding and practice of its role in contemporary world affairs? Is it a matter of relevance to show that the EU is not just a bureaucratic form without content in the complex arena of International Security, or a fragile economic powerhouse with almost no coercive might? Is it a matter of urgency to validate its string of Treaties beyond the optimistic wording of social market economy and mutual assistance clause into the reality of preventive diplomacy and just resolution of classic or asymmetric risks and threats?

Keywords

Asymmetric Risks and Threats, e-Cold War, EU Intelligence Service, Integration Deepening, SITCEN, Smart Power, Transatlantic Link

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² Based both on Maieutics and proper evaluation tools (e.g. SWOT Analysis).

1. INTRODUCTION

The undertaking to examine such a dilemma is facing a difficult task when considering the relative lack of bibliography on topic.

Theoretically, the field of Intelligence studies could be tackled using many International Relations (IR) perspectives. Recent developments nonetheless could hardly be covered other than using open-source documents while a regular research would have to wait for the disclosure of the classified files.

The emergence of Intelligence as a sub-category of the Security Studies has become prominently especially after the end of the Cold War in the context of analysis and revelations covering the elusive aspects of the KGB-CIA shadow confrontation.

Classic realist theorists like E.H. Carr or Hans Morgenthau had almost no reference to Intelligence in their theoretical approaches while the later alliance theorists (Stephen Walt, Randall Schweller) placed an emphasis on how to redefine or rewrite the famous balance of (hard) power. The influential works of some of the Cold War historians (John Gaddis) revealed hidden real front-like operations, perceived almost daily but not necessarily covered in the format of a standard theory. If so, what end goal should such full-fledged Intelligence theory serve to?

With state survival at stake, a defensive structuralist response (Falkenrath 2001) would focus on the multilateral preparedness to avoid major / critical security breaches because only such a theoretical approach could be justified to accompany the necessary amount of expertise required by the expensive maintenance of a secretive Intelligence ring of institutions.

At the same time, the offensive neorealist evaluation on the loss of relevance by the international institutions (Mearsheimer 1994, 95) doubled by the neoconservative pre-emptive approach as reflected by the NSS 2002, placed a significant emphasis on state reinvention of its ad-hoc, non-binding coalitions in order to forge effective answers to the post-Cold War security environment. A dual-track started to be implanted by the Bush Administration based on the ideas of Paul Wolfowitz and Donald Rumsfeld of using fast response military units (preferably designed for special ops) and Hi-tech (un-manned) weaponry in order to reduce to minimum the risks for a second Vietnam, with a high rate of casualties especially in urban warfare. A new command has since been developed in the US Army linking these two components and helping solve

the need for immediate success against the leadership of terrorist networks (Robinson 2012). The lapses which were scrutinized in the aftermath of 9/11 attacks determined the speed up of the unification process for the rather competing US Intelligence structures.

Meanwhile, the EU Security Studies (Hill 1993, 1997; Regelsberger et al. 1996; Wallace 2005, 2010; Duke 2000, van Ham 2000, 2002; van Eekelen 1998, 2006; Volten 2008, etc.) have covered extensively the transition from conscription-based to professional armies, the civilian control over the military, the transatlantic gap between USA and its European allies, the impact of Eastern-bound interlocked enlargements of NATO and EU, or the perspectives for a common security and defence policy (as prescribed by the Maastricht Treaty).

The ESS hesitated from draft to finish between copying the American approach (pre-emptive engagement – June 2003 version) to keeping a distinct and vaguely comprehensive stance in world affairs (effective and multilateral engagement – December 2003 version). No mention was made to the role of Intelligence and the main course of security affairs was circumvented to be a sort of *wait and see* tactics specific to the typical trend of Eurosklerosis. The Madrid and London bombings invalidated the vision of passive Europe and outlined the urgency for reaction. Suddenly, the theoretical and analytical focus felt on Hamburg-like terrorist cells operating deep inside EU or on the sociological traits of European second-generation citizens of Muslim faith willing to fight under Jihadist banners worldwide.

The EU deepening process could be both seen in terms of success and failure. Success because one century ago *La belle Époque*, an age of progress and civilization, was destroyed by the nationalistic logic of alliances, and failure due to the lack of advance on defining a participatory European identity.

The functionalist school has been claiming the merits of institutional spillover while the federalist camp has constantly searched for a national model on the basis of which to aggrandize a European super-state. Both schools have treated superficially the issue of galvanizing security at continental level, emphasising more the relevance of political will and bureaucratic design. Recent responses to non-security crises (the bail-out dilemma) has triggered slow but steady positive response towards more transfer of sovereign powers to the Brussels centre. The creation of the banking and fiscal unions which seemed unimaginable during WWII represents now common scientific knowledge and a tangible political process.

On the other hand, the analyses based on intergovernmental thesis see an intangible limit on the political frontier of security because without the sovereign right to coercion no nation state could endure.

The recent offensive resurgence of Russia in European affairs has been largely omitted in terms of scientific prognosis by the main schools of thought. The former KGB siloviki circles of power have been documented by the Western scholars (Hill and Gaddy 2013) but the main emphasis has fallen on energy security as a hard power tool (Gustafson 2012). No revisionist scenarios have been really envisaged and no role for EU Intelligence has ever been written on such account.

Preparedness for the future could very much help the advance of the European Union. The core values of the integration process are democracy, rule of law and social market economy at supranational levels. But for national scientists and decision makers, far fetching has always seemed the land of dreamers (e.g. Victor Hugo and his *United States of Europe*) and not of proper empirically-based science. Therefore, a proper security dilemma should cover practical terms like how to better scrutinize the national Intelligence bodies and not how to empower them at EU level for the uncertain benefit of a leadership still under construction. The Lisbon Treaty has institutionalized the presidency of the European Council and a revised definition of the High Representative. They are still debutant institutions and they lack the overall profile to claim state-like assistance from EU dedicated structures including full-fledged Intelligence.

The concept of Intelligence in itself is tricky and has come to the fore only recently. *Secret* was the standard word applicable to this level of security policy and it was similar in scope and coverage to the one of true diplomacy. Until Wilson's 14 points, the real arrangements in the area of European security were kept secret and mandatory laws imposed compliance to obligations for which ordinary citizens were never consulted democratically.

The European Union has one the highest levels of democracy in the world in terms of accountability, transparency, fight against corruption, promotion of human rights and humanitarian aid, etc., and from this perspective the emulation of an US-like world power play has constantly been considered counter-productive taking at least into consideration the CIA rendition cases (European Parliament 2007). Thus, an implicit higher role for Intelligence in EU affairs would be detrimental to the very fabric of soft power, which

represented the safe bet of acceptability in areas where USA was considered to be biased.

But the geo-strategic shifting sands of reality have always determined scholars to respond ex-post and try to calibrate their vision to the developing issue. Since the inception of the first EU Intelligence structure at the end of the 90s, authors have occasionally shown interest in the shadow existence of such an exotic body but never to offer a scenario for the future. It was a slow and peripheral developing process with comparisons mainly to be drawn to the US levels of integration and proficiency.

The overall contributions in the field of Transatlantic Security Studies have almost never analyzed the alternatives for anti-terrorist intelligence sharing beyond state-to-state transfer of sensitive data. The 2002 Security Council meeting in which Western diplomacies collided over the issue of Saddam Hussein regime's WMDs has clearly shown the level of fracture between NATO allies in terms of trust, joint vision and sharing in the field of Intelligence. Moreover, the European Union seemed fractured between Old and New Europe led by France and United Kingdom respectively.

Since then, France has fully returned to NATO military structures after a successful command bargaining made by President Sarkozy but the rift has been shown again in the context of the successive Intelligence scandals brought forth by controversial figures like Julien Assange¹ and Edward Snowden. Germany has similarly oscillated between compliance to NATO commitments, thus dependence on US security umbrella, and diplomatic conflict in face of disclosure of high-ranking phone tapping by CIA.²

The scientific scrutiny over the true functions of Intelligence in a nation state have constantly been affiliated more or less with the perception that they should be products of public diplomacy meant to justify academically the reason and expenditure for such structures. The development of graduate schools in the field of Intelligence (especially in Eastern Europe) has served constantly to the ominous needs of recruitment and less to rigorous analysis of performance which could occasionally be disseminated to the vested public,

¹ See *Le Monde* series on the sensitive bilateral issues exposed by Wikileaks (nuclear weapons, GMOs, French imperialistic goals in its African former colonies, arms exports, etc.) - <http://www.lemonde.fr/wikileaks-france/>.

² See *Der Spiegel* (2013) and *The Wall Street Journal* (2014).

after the mandatory timeframe has passed. The most consistent efforts in terms of evaluation have been made in USA by special Presidential and judicial ad-hoc commissions (9/11 Commission 2004; Webster Commission 2012) or have taken place in the traditional format of Congressional hearings in front of the Joint House/Senate Intelligence Committee¹. Also, in an effort to improve the ratings of effectiveness and credibility, the most important American branches of Intelligence (USIC, CIA, FBI) have been constantly issuing domestic and global security analyses and forecasts.²

The scope of my paper is to challenge the standard (quantitative) scientific view concerning EU enshrined institutions and policies. The topic is valid as a field of study, the methodology, diverse (including tools of evaluation on organisational change – Howard et al. 1994) and the results could be tested against the current status of affairs.

2. IS THE EUROPEAN UNION IN NEED OF INTELLIGENCE (SERVICE)?

Any search for a solution should start with a proper question. The self-proclaimed global role of the EU would be achieved by soft, hard or smart power (according to the fabric of each rhetoric), but is essentially dependant on Intelligence. The reason behind this rationale lies with the truism that pre-eminence, relevance and preservation need foresight, early-warning, shadow actions or special operations.

The EU pattern of integration has seen up and downturns, optimism and skepticism, federalism and intergovernmentalism, Euro-centrism and nationalism, empowerment and containment of Brussels' bureaucracy powers. At the beginning of the 6th decade of integration, the EU decision-makers considered it wise after the September 11 attacks, at the proposal of by-then Mr. CFSP Javier Solana, to accelerate the project of its first Intelligence-related

¹ See 2002 *Congressional Hearings*.

² See for instance National Intelligence Council (2012), Central Intelligence Agency (2014) and Federal Bureau of Investigation (2014).

structure (SITCEN)¹. In parallel, a military intelligence directorate (EUINTDIR) was set up in the Military Staff inherited from the Western European Union (WEU). After a decade of existence and in the new framework of the Lisbon treaty, a reshuffle was made in 2012 to bolster its credentials. Ambitiously renamed as the EU Intelligence Analysis Centre (EUINTCEN), this body was included in the newly established European External Action Service (EEAS), but mainly with the same mission of monitoring all sources and writing intelligence reports. On the other hand, since 2007 and under the formal aegis of a Single Intelligence Analysis Capacity (SIAC), Solana tried to increase the inter-operability between the civilian and military intelligence components, but ended up generating another bureaucratic helm dealing with parallel chains of command.

The very problem with EUINTCEN comes from the fact that it has not quite surpassed the initial limitation of SITCEN of having basically only understaffed structure with some open-source analytical competencies not much over the threshold of a performant mass-media monitoring agency. The critics of such a negative assertion would point out to the fact that the good practices of intelligence-sharing established by the Club of Berne² have facilitated the transfer of (NB. not raw but already processed) classified data from the EU member states to Brussels, especially in the field of counter-terrorism (with the help of an offspring, the Counter Terrorist Group - CTG). The aforementioned EU intelligence bodies have probably served the initial scope of inception but now they are being stuck in between the customary deepening (in the logic of overall integration) and constant sovereignist limitation. The global projection of diplomatic, economic and military ambitions faces stiff competition from old-style contenders. Democracy, human rights protection, market liberalization and free trade, denuclearisation or WMDs control, containment of extremism of all sorts, fight against terrorism, organised crime, cyber-risks and threats, all these EU core values, require Intelligence in the most aggregated form.

¹ See Report by the Secretary General/High Representative to the Council on Intelligence Cooperation (2001), pp. 4-5.

² Noteworthy, nonetheless, is the fact that this forum (of the 28 EU member states, plus Switzerland and Norway) has no decision-making powers.

The end state for the creation of European Union's full-fledged Intelligence Service should be the integration at supra-governmental level of the analytical and operative activities of the intelligence services of the member states, followed by the emergence of the decision-making and action system at the EU level.

The available options to achieve this could be: a. by contribution of the intelligence services of the member states; b. strictly European (by means of direct recruitment); c. by mixed approach according to the good practices already implemented in other security organizations (see the pattern of creating an *International Staff* in NATO).

Under any scenario, such a political and security endeavour should fall under the principles of pre-eminence, interoperability and autonomy.

The organisational needs start with headquarters and this should be in Belgium (Brussels) in order to link it with the idea of an integrated body at the heart of the European Union and to assure the mandatory cohesion with the other political bodies, both EU and national, operating there. The model of a Tervuren / Mons type of headquarters could be in place. The current premises in the *Triangle* building in Brussels alongside the core of the EEAS could be new and well located but they don't follow the classic and tested pattern of a *European Langley*.

The other organizational priorities should focus on the already existing good practices of the intelligence services of the member states. Taking into account the overall European lengthy selecting experience, the sensitive steps would be represented by the picking of leadership, especially of the person-in-charge, by the filling in of the pyramidal chart of positions, by the division of powers and by the definition of subordination to the other European institutions. In contrast to the current state of affairs regarding EUINTCEN under the leadership of Mr(s). CFSP/FASP, a better prospect would be its subordination to the President of the European Council. Such a subordination setup-up would facilitate the inclusion of the core business topics on the agenda of the European Council's summits and would facilitate *ad-hoc* periodical *NSC¹-like* meetings for the EU leaders (the President of the European Council, the Troika – former, present, next presidents of the EU Councils, the FASP High Representative, the President of the Commission and the President of the

¹ The United States National Security Council.

European Parliament). EUIS could also replicate the model of the Council of Ministers and COREPER by the implementation of regular meetings on monthly basis at the level of heads of agencies / the official representatives in the Permanent Missions in Brussels. EUIS should be subject to annual hearings and reports procedure in the European Parliament, similar to the well-established pattern of national civilian control over the state security sector. For budgeting there are two feasible options: *primo* by national mandatory contribution and *secundo* directly from the EU budget which would give EUIS an enhanced autonomy. The EUIS agents should be included in the diplomatic staff of EU permanent or *ad-hoc* missions abroad.

The prerogatives could be regulated by the means of the EU Security Strategy (ESS) and/or of the EU Treaty (TEU) and should cover the action areas (overall, domestic or external). Two important question marks should be related and addressed on the jurisdiction of the Court of Justice of the European Union (on similar issues like Guantanamo renditions or *Prism* monitoring programs) and also on the full inclusion of the military intelligence competencies (in accordance with the development of the EU Rapid Reaction Force and its global reach).

Thus, if we apply the framework of a SWOT analysis the results would encompass the following aspects:

2.1. Strengths

The institutional innovations of the Lisbon Treaty - The first aspect to be underlined under this criterion is the transfer of legal personality from the European Community to the EU as a whole. The EU new legal status grants upgraded rights of worldwide diplomatic representation assisted by the creation of the EU embassies alongside the national ones. *Secondly*, the transformation of ESDP into CSDP which means the acknowledgment of the next level designed in the Maastricht Treaty two decades ago, namely the achievement of a 'common defence policy' which in time will lead to a 'common defence'. The latter should be corroborated with the introduction of the assistance and solidarity clauses, which define the legal framework for a common defence organisation, in other words a military alliance. If we compare the wording in the article 5 of the Brussels Treaty and article 42 (7) of

the Lisbon Treaty the logical conclusion is synonymy. Last but not least, it should be emphasised the extension in scope and range of the Petersberg tasks. *The proficiency and experience of the national intelligence agencies* – The first European secret services have been created in the Middle Ages. The network of spies Queen Elisabeth I created and used in order to monitor the build-up and the movements of the *Invincible Armada* represented the embryo of the future to be Secret Service Bureau with its highly successful two main branches: the MI-5 and the MI-6. One of the most solid explanations of the British success in the two world wars - as the sole country to start and end them victoriously, despite huge human, financial, territorial and other material costs - is to be found in the pre-eminence of its intelligence service. The other big member states (France and Germany, mainly) have also a long tradition in the field of espionage and covert operations. Following the pattern of interpretation of the Neo-Liberal school of thought (Keohane and Nye), we can consider the informative field as part of both soft and hard power, meaning the *smart* one. The EU newer members, all with the exception of Malta and Cyprus former members of the Communist block, have also a long and effective experience in domestic and foreign intelligence activities.

The convergent security interests: In the post-September 11 world, the EU has been almost as much of a terrorist target as the United States. The majority of the EU member states have participated in the US-led campaigns against terrorism, thus becoming targets (Spain – March 11, 2004 / United Kingdom – July 7, 2005). Fighting against Islamist terrorism from within or from outside is undoubtedly a common cause and neutrality is not applicable in such an asymmetrical war. Moreover, the organised crime¹ is the other category of asymmetric risks and threats which should be regarded as a common priority taking into consideration the illicit vectors involved (trafficking of human beings, drugs, money, arms, merchandise).

The absence of political and popular opposition: The implementation of the civilian control over the security sector, even in the former Communist countries, has generated a higher level of confidence and respect towards the institutions involved and their personnel. The principle of the rule of law implies that in

¹ See the dedicated webpage of DG Home Affairs - http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/index_en.htm.

the end regardless of negative practices like the CIA rendition cases, some specialised bodies would uncover, analyze and take the appropriate measures to restore the democratic environment and valid standards of human rights protection. But the most costly from a political point of view is the loss of human lives due to the poor management of military operations. The involvement of the secret services falls less under the public scrutiny and doesn't imply public mobilisations or long-term wars. Their assets are different than those used in conventional warfare and their targets are usually rigorously predetermined.

The popular myth of the special forces: The thrillers of the *Bond series*-like action movies based or not on the works of famous authors (Ian Fleming, John le Carré, Graham Greene, etc.) have inflated the urban perception over the superpowers and influence of the adventurous 00 agents. At the same time, historical works or autobiographical writings of "super-spies" have shown to the general public the unknown facets of special operations undertaken by some of the most combat efficient units in the world which usually are branches of the secret services or cooperate closely with them (NKVD-KGB-GRU-FSB / Mossad-Aman / CIA / MI6 // Spetsnaz - GRU, Alpha, Vympel, Special Purpose Service / Kidon, Sayeret Matkal, Shayetet 13, Shaldag / Green Berets / SAS, etc.).

2.2. Weaknesses

The ongoing rivalries among national intelligence agencies, the limited interoperability and the Moll Syndrome - Regardless of the size of each member state or the resolution of their formal disputes, historical or purely bureaucratic reasons still fuel the adversity between competing national secret services. Moreover, the major downsize between West and East in the EU is represented by the level of mistrust that still affects the prospects of integration or enhanced cooperation taking into account the levels of penetration succeed by the former Soviet satellites in the Cold War days (e.g. the Caraman network¹ or the Hernu

¹ Mihai Caraman, a Securitate agent and head of section, active in France between 1958-1968, managed to recruit a series of NATO officials for the Romanian Secret Service. The sole Securitate officer decorated by the KGB (for exceptional merits in the fight against NATO). After Ceausescu's

case¹).

The rejection per se of the deepening of EU integration and the implicit opposition of the national intelligence agencies under the prospect of losing pre-eminence and/or personnel – The current financial crisis and the multitude of sovereign opt-outs (Euro-zone, Fiscal Pact, Schengen, Charter of Fundamental Rights, Free Movement of Services, CSDP, etc.) have cast serious doubts over the future of the EU as whole. The new syndrome of a EU integration *fatigue* (both in terms of deepening and enlargement) affects directly the prospects of a new EU body, budget-costing and urgent-less. The issues of pre-eminence and personnel loss has already been tested by the EU abroad missions which have generated the need for supra-national coordination and have attracted job applications from very dynamic and young security staff eager to by-pass the bureaucratic inertia of their national systems and have a better paid career elsewhere.

The absence of precedent – The Federal Central Intelligence Agency and US Intelligence Community are partial examples and non-European. The lack of a historical reference in Europe could enhance the resistance to such a fly-high project, the incremental progress being hampered by *un-know-how*.

The difficulty of defining competencies and line of command – One of the most serious weaknesses of the current state of affairs is the limited scope of the already established structures. Institutional ambition is essential in pushing forward the agenda of such an endeavour; this should also address the need for division of labour but under the same umbrella. If not, the bureaucratic inertia and the EU style of shared competencies could trigger the failure to achieve a core position in the logic of foreign and security affairs deepening.

The nomination of Mr. / Mrs. Intelligence – Taking into account the practice of inter-state bargaining for the leadership of the other EU bodies (e.g. the presidency of the EU Commission), the result would be finding the lowest common denominator and not necessarily of the best available one.

fall in 1989, he became the first director of the Romanian Foreign Intelligence Service. See Pierre Accoce and Daniel Pouget (1972).

¹ Charles Hernu, the French Defence Minister in the first term of president Mitterand was for more the ten years an agent of the Communist Secret Services (mainly KGB and Securitate). See Jérôme Dupuis and Pontaut Jean-Marie (1996); Christopher M. Andrew, Vasili Mitrokhin (1999), pp. 52-53.

2.3. Opportunities

The impetus and support for the EU agenda as global player and not only economic powerhouse – History irrefutably shows the fact that the quest for pre-eminence and endurance in the top category of international actors depends vastly on the capacity to gather and exploit effective intelligence. Since the days of Elisabeth I's network of spies (which helped prevent the annihilation of England) to the military failures of the Third Reich (due mainly to the breaking of the Army and Navy *Enigma* or *Lorenz* ciphers by the British Intelligence), the need for a proficient secret service has constantly been a must have in order to cope with the full range of challenges of facing adverse competition while acting regionally or globally.

The faster and more efficient countering of risks and asymmetrical threats (Madrid and London bombings / Kosovo-like organised crime) – Salafism is one of the most expansive threats especially for the Western part of the European Union¹. Targeting mainly the United States and its most important NATO allies, Salafism² is both theoretically and organisationally the adversary of Liberal democracies which embrace Globalisation and secular rights or freedoms. The increasing Muslim populations of the European Union tend to enclave in the suburban slums and to be more open to the radical Islam preached by Salafists, Wahhabites and other influential leaders manipulating the disenchantment on post-modern standards of life and values. Drawing unsubstantiated parallels to the Golden (but not blameless) Age of the “perfect” Rashidun first dynasty of the Arab Caliphate, the Salafists and their terrorist off-springs have created dangerous operating cells in Western Europe capable of bringing in operatives from the Middle East (*the Hamburg cell* and the one involved in the Madrid bombings) or to activate and convert second generation European citizens (the London 7/7 bombings, drummer Lee Rigby's killing or the *Charlie Hebdo*

¹ See for instance the second chapter of the latest *Europol Report on Terrorism Situation and Trend Report*, TE-SAT 2013 (pp. 19-26) or Edwin Bakker's study (2008) on “Jihadi Terrorists in Europe and Global Salafi Jihadis”, in Rik Coolsaet (ed.), *Jihadi Terrorism and the Radicalisation Challenge in Europe*, pp. 69-84.

² Alternatively, it is easier to penetrate and fuel conflict and disunion in sensitive hotspots with Western vested interests (Afghanistan and Pakistan, Phillipines, Maghreb and Levant, Sahel). See the recent DG External Policies' Study (2013) on *The Involvement of Salafism / Wahhabism in the support and Supply of Arms to Rebel Groups Around the World*.

massacre). On the other hand, the growing rejection of Multiculturalism by the Western Europeans especially, shown by the polls and elections of the last decade, should not lead to Brevik-like acts of individual or collective terrorism. Nonetheless, the serious threat to European security made by the organised crime originated at its Eastern and Southern borders should be tackled with both technical assistance (on border management or fighting corruption) and with a higher degree of intelligence gathering, sharing and interventionism (in order to monitor, infiltrate, expose, dismantle any kind of illegal trafficking). Noteworthy, in the context of legal debates and debacles over defendant's rights (ultimately in front of the European Court of Justice) is the necessity of providing key data as evidence for successful prosecution which would make the case for EUIS to fill in the empty slots.

The reduction of the 3D security syndrome in the aria of Intelligence – The strategic security relationship between NATO and EU has been characterised by efforts to prevent or reduce the negative perspective of doubling, decoupling and discriminating, in short the 3D problem. Applying this pattern to the field of interaction between the intelligence agencies of the member states, the proper solution would be EUIS because only an integrating body, active at the whole EU level, could have proper institutional tools to diminish or contain the 3D syndrome.

The prospect of a functionalist spill-over phenomenon in the case of a limited and experimental start-up under the aegis of structural cooperation, plus the inhibition of the opt-out tendencies (e.g. Denmark – CFSP under the reasoning that the national intelligence system is sufficient per se) – The evolution of the security and defence dimensions of CFSP have been incremental but based on the functionalist approach of lessons learned and gradual achievement of the strategic goal outlined in the Maastricht Treaty (art. J.4.1. - “the eventual framing of a common defence policy, which might in time lead to a common defence”). Without the integration of the Intelligence bodies, which is the case for NATO, the EU could still act as a potential military alliance but cannot prospect the chance of taking fully benefit of its newly developed legal entity in the quest for a truly single voice in world affairs. In the author's opinion, the Denmark case of opting-out of the security and defence affairs of CFSP would not be replicable to the field of Intelligence, once the EUIS would be in place, due to the very nature of being left out of a very sensitive field of data collecting and sharing at the EU level. For instance, the resurgence of asymmetric risks and threats within EU are by definition off NATO's radar, so involvement and

sharing is advisable.

The conception of a superior, integrated and better cost-effective system of early-warning for the emergent crises in the vicinity – In the context of the global financial crisis, the pooling of forces, even in the field of Intelligence is advisable taking into account the amount of exposure to the wide range of tail events pertaining to the EU vicinity. The need for early-warning is paramount, but the (quasi-) independent actions of all 28 member states could mean in the end slow response and integration times, leading thus to counterproductive ends.

To achieve the level of interoperability between the Foreign Action Service – EUIS – EU Rapid Reaction Force (EURRF) – The EU higher stance in the global security issues cannot be achieved but by the sheer combination of its soft and hard powers. If the EUIS could prove itself worthy of anything would be the very function of filling in the missing link between newly developed EU diplomacy and the expanding range of Petersberg tasks in the field, all under the umbrella of a smart power.

The enhancement of the EU border security (Schengen or non-) – The EU Eastern and Southern borders are challenged regularly by the organised crime (drugs, small weapons, illicit merchandise, human trafficking) and the waves of refugees in the aftermath of the Arab Spring (see the case of the Italian island of Lampedusa assaulted by tens of thousands of Maghrebian refugees). Unfortunately, the level of corruption in the newer member states (Romania, Bulgaria) remains high, which could signify the very facilitation and endurance of these asymmetrical vectors. In the end, it depends very much on the capacity of *the EU Core* to supervise and advise the member-states about the necessity to bolster their anticorruption policies in order to strengthen the borders. EUIS should play in this respect a corrective role of preventing the dissolution of authority at the EU borders due to the lack of political will and impact of corruption of the decision-making bodies (including those in the field of security / Intelligence) of member-states in charge of frontier securitisation.

The prevention of the Wikileaks-like phenomena and of infiltrations in the EU institutions – The public diplomacy principle introduced at the end of WWI as a governing rule of promoting foreign policy should not be mistaken for full transparency. The governments still use secrecy in planning and information sharing but the degree of public accountability has increased taken into account the double scrutiny of (inter)national press and NGOs. The recent

Wikileaks scandal has not been generally challenged for its authenticity and represents a significant blow for the USA diplomacy, credibility and stance in world affairs. The EU shares the same democratic principles as the USA but it is of primal importance the preservation of the decision-making process from disclosure and infiltrations typical for the Cold War Era.

The inclusion of the Intelligence chapter in the accession chapters of negotiation – This aspect could prove to be very hard to achieve but its institutional benefits would bear comparison to the ones of introducing the fiscal union. The member states have often pledged in writing their willingness to real-time data-exchange, joint planning and operation, but in fact even after major crisis (terrorist attacks), the Cold War-like rationale has prevailed. Introducing an Intelligence chapter for the candidate countries would secure at least in principle their commitment to the higher Brussels-led integration and could trigger a functionalist spill-over from newcomers to founding or older members, usually countries with higher statute within the EU. Also, the IGCs¹ of the future could easier include in their agenda a deepening of this sector of “unionalisation”.

To assist the European Defence Agency and European armaments producers – A perennial vital field, the assistance to the business sector in terms of counter-industrial espionage should follow the footsteps of speeding up by the European Defence Agency of its efforts to aggregate, consolidate and integrate the European market.

The transformation into a unifying institution – This entry would fit into the pattern of other EU (security) structures which by the logic of bureaucracy, better resource management and response time to tail events have managed to become referential and effective despite a slow start or lack of initial commitment.

To increase the effectiveness of the European arrest warrant – Europol has succeeded since its inception more than a decade ago to increase its relevance and efficiency in the field of justice, liberties and home affairs, but has failed to “federalize” the intelligence related to it. The European arrest warrant mechanism works well but the main problem is not the institutional inter-state cooperation but the prevention and countering of the most important asymmetric threats in the field of cross-border terrorism and organised crime.

¹ Intergovernmental Conference (for drafting the EU Treaties).

In the end, it is of lesser importance the property-related crimes and of higher significance or matter of urgency the preservation of human life.

To bolster the perception and weight of the EU – The empowerment of the EU in this regard should be done in comparison to strategic allies, especially USA (e.g. Kissinger's *call dilemma*) or to problematic counterparts like Russia (e.g. the energy security / diplomacy or the containment of secessionist movements in former Soviet satellites).

2.4. Threats

The creation of a formal thus ineffective EUIS – The EU has a vast experience in terms of institutionalisation. Nonetheless, and despite some relevant facts and figures shown by the incumbent structures, a full-fledged EUIS would be ineffective if formalism would substitute in the end the real need for prerogatives at the EU core. A *headline goal* should be defined on the lessons driven from past experiences of institutionalising security structures. Otherwise, a formal supra-governmental institution would just add to the bulk of EU bureaucracy and increase the democratic deficit of something artificially created, unable to serve the EU identity.

The empty chair-like crisis – Similar to other policies and institutions, such incidence in the field of Intelligence could be triggered mainly by the big member states. Each of them has long-serving secret services working occasionally with one another on the basis of their joint membership in NATO, for instance, but the level of mistrust and rivalry has constantly marred the alleged cooperation. Eurosclerosis and Euroskepticism are occurring constantly due to big powers' inability to accommodate their domestic performance to the EU projections as a global actor. The constant political bargaining, especially in the inception phase of EUIS, could trigger extensive voting blockages, thus undermining the relevance and operationalisation of this undertaking.

The budget allocation process – An important question mark should address the inclusion of this element under the scrutiny or not of the EU Court of Auditors and the European Parliament. The secrecy imperative justifies the non-disclosure of each financial chapter under national regulations but the specificity of a similar body at the EU level could trigger higher expectations in

terms of transparency, thus affecting the effectiveness of EUIS. One of the main reasons for integration and transfer of competencies to Brussels is cost-sharing/efficiency in times of crisis for a very expensive pillar of the security sector. Conjunctly, an improper level of subsidies could block the transformation of EUIS into the leading intelligence provider and operator in the EU.

3. CONCLUSIONS

The inception of EUIS could be considered as *the last frontier* of the European deepening phenomena. Thus, it is not necessarily a matter of chronological succession of institutional events leading to such a bureaucratic or functionalist outcome, but it is the last prerogative a modern state would part with in the logic of supranational integration.

The High Representative under the current legal design of the Lisbon Treaty is a key decision-maker, higher in rank than the president of the European Council, because being the boss of EU Intelligence body, however small that unit be momentarily, leaves room for a *E.J. Hoover-like pre-eminence* over a newly established European “presidency” which is still lacking a *White House-like apparatus* and the capacity to inspire and drive the ranks to a pan-EU, strategic goal.

In order to be practical, the *Mutual Assistance* and *Solidarity* clauses provided by the Lisbon Treaty cannot avoid the key aspect of access to the national intelligence agencies. This could be in the end the trigger for evolution in this field because you cannot plan and commit resources properly and in accordance to the best practices for a wannabe military alliance without intelligence sharing both horizontally among EU member-states (including the neutrals) and vertically to Brussels. The EU as a whole needs early-warning from all sources available but also data integration. The EUIS should play integrating and preventive role both as an intelligence analyser (which more or less is done presently) and operator. The essential attribute of operation management could include *FBI-like* missions within EU and *CIA-like* missions outside EU.

The institutional design should none the least address the issue of how many

intelligence services the EU really requires. In the most decisive moments, the turning point could end up as positive outcome especially through integration and fast response; in order to achieve this it is advisable to avoid the wrong doings of the plural national systems bogged down in domestic rivalries, and opt for a single organisational tree with two main branches: the foreign intelligence unit (a sort of European MI6) and the MI5-like internal security unit (in charge of counter-espionage). The needs for secure communications or access to satellite imagery, and the specifics of military intelligence could be satisfied by adjacent units, operating under the same hood. Moreover, the very existence of a single EUIS would be a facilitator of the deepening scenario of integration on the part of the intelligence services of the member states.

Post-Scriptum: The e-Cold War and EUIS

Is there a new kind of Cold War in terms of cyber-espionage?

Taking aside the wide and controversial efforts of the NSA, CIA, FBI and other American agencies to curb the terrorist threat, but also to assess the resilience of US hegemony / leadership in world affairs by monitoring the web data, there is a distinct category of state-sponsored cyber-spying focused on industrial patents. The old technique of stealing technological secrets by deep routed networks of spies (e.g. nuclear and hydrogen bombs) has been revived and upgraded by China or Russia in order to prevent the West to replicate continuously the success of Silicon Valley (in securing its upper hand in terms of Revolution in Military Affairs, industrial robotics, pharmaceutical novelties), etc. The entrepreneurship of Steve Jobs, Bill Gates and other inventors, the publicity and reality of the Star Wars programs, the agricultural industrialisation, the Hollywood, CNN, MTV, the pop culture of the '80s have facilitated the triumph of USA in the Cold War, capturing in due course the hearts, minds and pockets of the new generations living behind the Iron Curtain and Berlin Wall. The legal principal of intellectual (private) property has been a pillar of the capitalistic societies but something irrelevant for the Communist regimes as long as it belonged to the *others*.

Not much has changed in those countries after 25 years in terms of copyright. Moreover, in *the global village* envisaged by McLuhan (1962), it's far easier now to penetrate online and steal the others' secrets. That's why it is vital for the EU to share US concerns in this respect and fight back diplomatically and

electronically to counter¹ the new type of *e-Cold War*. Of course, the recent exposure of the American monitoring programs is seriously damaging to the overall cause of pre-empting the Chinese (industrial) espionage² but the EU should use its better image to act united against IT strategic threats. To this end, an effective EUIS based on the experience already existing in Brussels in terms of electronic monitoring should streamline the efforts done distinctly by the member states. The existence of dedicated Cyber-crime Centre (within Europol), Strategy, Directive and Eurobarometer³ represents positive steps in terms of institutionalisation but require integration into a proper EUIS⁴, if a Digital Single Market⁵ is to be fully created and protected. Individual and small-scale cyber-crime is manageable by a European police-like structure, but the real threats often are posed by state-related hacking vectors (e.g. the 2007 Russian-sponsored cyber-warfare against the Estonian state and its main economic entities)⁶. So much is at stake in terms of competitiveness, fair competition, exports, personal data protection in an age of EU citizenship, big corporate enterprise (including the defence sector), critical infrastructure or single space of freedom, liberty and justice.

In order for the EU to be cyber-protected, these vital interests should also not exonerate the United States despite the good functioning⁷ of the transatlantic link. Expanding and securing autonomous lines of IT communications is similar in strategic value to the safe, fast and reliable transportation of troops and supplies to the classic battlefields. The United States are not acting exactly as an Orwellian-like *Big Brother*, but the lack of investment (the gap is still

¹ See for instance Martin C. Libicki (2009).

² *Titan Rain* cyber-operation against United States during 2003-2006. See Nathan Thornburgh (2005).

³ Special Eurobarometer 404 on Cyber Security. "10% of internet users across the EU have experienced online fraud, and 6% have experienced identity theft... Around half of internet users in the EU are concerned about experiencing identity theft (52%) and about being the victim of online banking fraud (49%)" - pp.4-5.

⁴ Or at least coordination.

⁵ According to the Copenhagen Economics Report (2010), the full implementation of a Digital Single Market could increase the GDP of EU by € 500 billion a year, meaning more than 1,000 per person. - p. 35.

⁶ Evaluated as the second most important series of cyber-attacks after Titan Rain. See Richards and Jason 2009.

⁷ The establishment of a EU-US Working Group on Cyber security and Cybercrime (2010) or The Cyber Atlantic Exercise (2011). See Cecilia Mallstrom (2013, 2).

strategic in terms of satellite systems and networks) or concern could fuel an ever-growing reliance on the American assets, hampering implicitly the EU identity and impact in world affairs. EUIS could act consequently as the European partner but also as a strong deterrent towards the US intelligence structures, when needed.

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