

Jerzy Zawisza

**THE ORGANIZATION AND FUNCTIONING  
OF THE POLISH SECURITY SYSTEM  
FOR CROSS-BORDER CRISIS**

(studies on the quality of security)



*Serum est cavendi tempus in mediis malis*

Lucius Annaeus Seneca

*I offer sincere gratitude to everyone,  
whose knowledge was helpful  
to me during writing this monograph*

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## Abbreviations

CEP	Civil Emergency Planning
CFE	Conventional Armed Forces in Europe
CFSP	Common Foreign and Security Policy
CJTF	Combined Joint Task Force
CSBM	Confidence and Security-Building Measures
DPC	Defense Planning Committee
EAPC	Euro-Atlantic Partnership Council
EDA	European Defense Agency
EISS	European Institute for Security Studies
ENP	European Neighborhood Policy
EUNAVFOR	European Union Navy Force
ESDC	European Security and Defense College
ESDI	European Security and Defense Identity
ESDP	Security and Defense Policy
ESS	European Security Strategy
EUMC	European Union Military Committee
EUFOR	European Forces
EUPOL	European Police Mission
GEMS	Global Emergency Management System
ICAO	International Civil Aviation Organization
CSCE	Conference on Security and Co-operation in Europe
NAC	North Atlantic Council
NACC	North Atlantic Cooperation Council
NATO	North Atlantic Treaty Organization
NGA	National Governmental Authority
NPT	Non-Proliferation Treaty
OSCE	Organization for Security and Co-operation in Europe
OECD	Organization for Economic Co-operation and Development
ODIHR	Office for Democratic Institutions and Human Rights
UN	United Nations
ORA -I	Quick Reaction Alert-Intercept
PfP	Partnership for Peace
SCEPC	Senior Civil Emergency Planning Committee
SFOR	Stabilization Force
EU	European Union
WEU	Western European Union
WMD	Weapons of Mass Destruction
CIS	Commonwealth of Independent States
WTO	World Trade Organization



## Introduction

Security is the foundation of contemporary international relations on the basis of theory and practical approach. The problem of ensuring safety of the vital interests of states and nations has gained special significance at the end of the twentieth and early twenty-first century, as it is a process that evolves over time and takes on different values depending on challenges and risks. The scope of research depends on how detailed analysis of purpose and size is made and on the extent of its use in theory and practice. In the analyzed period there has been a qualitative change in the security environment since that moment we can not use the category of war and peace but we shall look for new trends and foresee possible risks.

Nowadays both in theory and in practice more often we can encounter so called crisis situation in the area of security, which is the result of a breach of survival and increased risk of loss of guaranteed development. Concern for safety is set out in Constitution of the Polish Republic on April 2, 1997, published in the Official Journal on 16 July 1997., No. 78, item. 483. Article 5 states: "The Republic of Poland shall safeguard the independence and integrity of its territory and ensure the freedoms and rights of persons and citizens, the security of the citizens, safeguard the national heritage and shall ensure the protection of the natural environment pursuant to the principles of sustainable development." Since the security of the citizens, the country's independence and integrity of the borders are existential national interests, providing them is an absolute duty of the state, which allows the use of whole set of forces and resources owned by the state. The Constitution establishes the responsibility for the security of the key persons in the state, as well as relevant offices, institutions and citizens. On the other hand international security is specified by the provisions of the international treaties and conventions, as security in the modern world has become a priceless value, which the nations and peoples desire. The pursuit of individual citizens of different nations to safety should also be emphasized. If we consider safety we have to be aware of internal and external environment of the state, international surrounding, tensions in internal structures, which appear as a threat to the state, individual, society and international community. At this point we can different concepts of security such as collective security, cooperative security, comprehensive security, cooperative security, etc. All are complex, ambiguous and emphasize the political importance of international relations, in which national security becomes de facto international security as a liaison of other participants of international relations. This means that the interests of national security are the substance of the composition in the structures of international order. Alliances, that increase the security of individual countries, restore the balance between countries or groups of countries and stabilize situation in a particular region on the basis of geopolitical clause *casus foederis* - which allows to set up the allied commitments, are important for shaping international security. This is a new approach to the problem of international security known as "comprehensive and cooperative security system". In the complex area of national security, including internal security, military security management becomes the duty of the utmost importance to ensure vital interests of the state.



# **I**

## **Republic of Poland security and its aspects**



Poland is at the stage of creation the state security system consistent with the new realities of the political system, political, international, allied, economic and civilizational change posed by processes of regionalization and globalization. There is in fact a need to adjust the Polish system of security to existing conditions, and the reorientation the defense against all the serious threats, not only military. There is now common recognition that national security cannot be built solely on the basis of the armed forces and national defense system. Keeping national security requires the integration of at least two elements, the outer - the subsystem of internal military defense of the state and inner - national public-administrative subsystem. With the armed forces must cooperate civil institutions and vice versa - in a military crisis armed forces should support civilian management structures. There is also a real need to create a common, effective, civil-military national security management subsystem, which would be adapted to functioning without any major organizational change in peacetime, crisis and emergency situations, including war (Lisiecki, Raczowska-Lipińska, Sitek, Pokruszyński, 2009, 388).

John Paul II during his pilgrimage to the homeland addressed these words to the young people in Westerplatte:

*“Each of you young people, finds own Westerplatte.*

*A dimension of the tasks that must take and complete. A just cause, for which one can not to not fight.*

*A duty - a duty which you can not avoid.*

*You can not - desert. Finally, some order of truths and values that one should - maintain and defend, as Westerplatte within and around you.*

*So, protect yourself and others.”*

The most important document regulating approach to the security of the Republic of Poland is the Constitution of 2 April 1997 published in the Official Gazette of 16 July 1997, No. 78, pos. 483rd - article 5 of the Constitution says,

*“Republic of Poland shall safeguard the independence and integrity of its territory and ensure the freedom and human and civil rights and safety of citizens, safeguard the national heritage and to protect the environment, guided by the principle of sustainable development”.*

The Constitution expresses the types of threats and rights and obligations of bodies of public authority if any threat does occur, then they have to take all measures to ensure the safety of the state. The Constitution distinguish in their articles following types of threats:

- Armed attack on Polish territory (Article 116, paragraph. 2),
- External direct threat to the state (Article 136)
- Threats of a particular nature if constitutional measures are not sufficient (Article 228 paragraph 1)
- External state's threats (Article 229).

If there is a threat to international peace, the Polish Constitution provides for the possibility to defend against aggression (Article 116 paragraph 2 or Article. 229), this possibility is also regulated by international agreements. The Constitution establishes the responsibilities of key persons in the state, as well as relevant agencies and institutions and its citizens.

Another important document is the Act of 21 November 1967 on the common duty to defend the Polish Republic, the unified text published in Journal of Laws No. 21 of 2002., pos. 205. This antiquated document testifies political, not fully understood, treatment of matters of the utmost importance.

Since the introduction of this act many significant changes in the political life of the country have occurred:

- after signing the Agreements in Gdańsk, Szczecin and Jastrzebie-Zdrój a slow process of inquiry independence has started, finished with long-awaited full freedom and sovereignty,

- The Warsaw Pact has terminated,
- total collapse of the Eastern bloc together with the Soviet Union,
- departure of Soviet army from Poland,
- the fall of the Berlin Wall,
- a new Constitution has been adopted for the new era, although it does not keep up with the these days,
- The Republic of Poland became a full member of NATO,
- Poland became a member of the European Union and a number of important international organizations.

The most significant threats to national security are military threats that have significant impact on national defense. Nowadays, the use of the military bugbear as a impact on the safety of the aggressor can not go unpunished, because the use of weapons would expose the aggressor to strike the opponent (Malendowski, Mojsiewicz, 1997, 37). Poland can count on allies only if it is not able to defend itself, if it is run out of its own abilities to deter the attacker (Nowak – Jeziorański, 2003, 127). One of our national defects according to professor of theology Stanisława Grabska is recklessness. People think that nothing bad will happen, that they are safe. However, this is not true (*Rzeczpospolita* 7-8 August 1999).

According to A. Maslow's hierarchy of needs "*people must satisfy five consecutive groups needs - physiological, safety, social, esteem and self-actualization.*" And the multi-level (specifically, "three-level") theory C. Alderfor suggests that *human needs are arranged in three overlapping categories - existence, relationship and growth* (Jakubczak, 2003, 54). This in turn causes the need to meet human needs in the area of multi-generational social life which is equivalent to the nation.

It requires:

- Integration of the national community,
- Gaining the respect of other people and communities - called ambition and a sense of national dignity,
- Ensuring safety, in particular, protection from poverty (prosperity) and limitation of individual discretion (freedom).

These tendencies force shield, which can be called safety in general, which can be understood as a state and a process. As a state security allows people their fulfillment.

Thus, security is seen as a duration and survival, state in which the individual, social group, organization, state does not feel the threat of its existence or fundamental interests, a situation in which there is a formal, institutional and practical safeguards (Maciejewski, Nowaczyk, 2005, 17). However, as the process safety ensures development, self-realization and improvement. States of risks to man are, therefore, all the situations that interfere fulfillment and self-realization or render it impossible (Maciejewski, Nowaczyk, 2005, 17). The modern concept of security is poly-semantic and basically there is no area, including non-material and material, in which safety would not play a significant role (Świniarski, 2001, 41 – 42). The modern concept of security includes - a much broader scope than in the past. The old notion of security covered, in principle, political and military aspects. Today it also covers economic dependence and interdependence, the issue of natural resources, ecology, demography, social and humanitarian issues related to the preservation of national identity and ensuring fair participation in the development of civilization of the modern world. The essence of the phenomenon of security should be seen in its relationship with the phenomenon of threat, that is on the one hand a certain state of mind or of consciousness, caused by the perception of phenomena that subjectively is assessed as unfavorable or dangerous, on the other hand objective factors causing uncertainty and concern (Wiatr, 1964, 50). According to J. Stańczyk the essence of security based on guarantees the inviolable survival and free development, is certainty. Certainty is a precondition for both of these, and it may be objective or subjective. Safety in the synthetic approach can be described as an objective certainty and guarantees the inviolable freedom

of survival and development. (Zawisza, 2009, 15). The lack of safety or decrease level of security shall be treated as a threat, events and processes dangerous to the existence of life. The prevalence of the term “safety” conducive to its diversified understanding, however, safety can be considered a universal notion of security, a condition, when there is no threat, perceived subjectively by an individual or group (Jakubczak, 2003, 21).

The national character of the Polish security affects:

- a **permanent desire of existence** of historically formed community of people connected on the basis of common fate, history, culture, language, territory, and economic life, manifesting itself in the national consciousness of its members. It is a historical collectivity in a constant state of transformation, made up of those people who are living now, and those who will live in the future (Makowski, 1999, 28 – 29),

- **national interest**, understood as a set of general and permanent purposes for which people work. These objectives include the need to unite to protect against aggression, to raise the standard of living and to maintain national and international stability (Kukułka, Zięba, 1992, 151),

- the **nature of the state**, which remains a major participant in international life and has a definite advantage over others. The territoriality and sovereignty allow the state to set a framework for citizens, and even control them (Halizak, Popiuk-Rysińska, 1995, 14). The state is in fact, the most perfect form of protection of human needs for security. Therefore, the dominance of the state as the subject of security is indisputable for centuries (Kitler, 2002, 44),

- **Polish historical experience**, which teaches that neglecting sphere of national security, once more we can become vulnerable area, a public road for foreign troops and in case of a new war experience “tragic September disaster”. Abandoning irregular actions in the national security strategy - repeat elementary strategic mistakes involving the overestimation of cooperation with allies, insufficient reliance on state’s own strength and, consequently, incorrect selection of the defense measures and the almost complete disregard to appropriate and necessary national defense measures (Clausewitz, 2010, 443 – 450).

National or international security, as concepts are categories of variables in terms of time, because the potential for the guarantee applied by individual countries or groups of countries allied often mutually depends to a large extent on the position of these countries and their resources used to build the capacity of the international security system. And security functioning like that is not permanent in the long term, because each time expresses only a particular state and the accompanying process of growth, stagnation or decline. Hence it is not possible to have permanent security by individuals, countries, groups of countries or regions of the world on a global scale. (Jakubczak, 20, 3 37 – 38). Currently, national security, national defense include, in addition to military force, protection and rescue capability, material and environmental assets to protect from non-military threats (...)Threats posed to modern society by disasters and technical failures, natural disasters and environmental pollution are equal to the effects of war (Jakubczak, 2003, 91).

It can be noted that if national security is a problem of individual countries, in fact their leadership (Fehler , 2009, 17), the international security is the result of a compromise in the framework of the national security strategy, between the national security of different countries, and sometimes also important actors in international relations, such as among others: alliances, international economic, organizations, religious communities of regional or global scale, influential corporations (Fehler , 2009, 24).

National security can be understood as the ability of a nation to defend its internal values from external threats. National security is used synonymously with the concept of security of the state, because state is the basic form of political life of nations. Safe development of the state and the nation results from their internal structure and functioning of the external environment. They are implemented primarily by the state’s foreign policy and expressed as “vital national interests”, which is characterized as a *raison d’etat*. (Fehler , 2009, 14).

Given the fact that national security can be seen as an undertaking or creative process,

we shall keep in mind that in terms of the strategic actions it provides internal and external conditions conducive to the development of the state, its life and protects from existing and potential threats (Herbut, Antoszewski, 1973, 35). It is also not only the protection of our people and territory against physical attack, but also protection by various means and economic, political vital interests, loss of which would endanger the life and the fundamental values of the state (Stańczyk, 1996, 21).

From the Polish point of view, according to W. Kitler, national security is a primary value, among other national objectives and concerns of national values measured in the following categories: vital interests, important interests, humanitarian interests, it determines the level of freedom in achieving these goals. In this context, W. Kitler made the effort to define national security as a process that includes a variety of treatments in the field of international and internal relations and protective and defensive measures, to create favorable conditions for the functioning of state and oppose to the challenges and threats to national security (Pokruszyński, 2009, 38).

Pointing to the contemporary Polish national security specifics, R. Kuźniar argues that the central issue of any *raison d'état*, especially Polish, is safety. We should bear in mind the multidimensional nature of security of modern states. Two dimensions are essential, however: first, existential, tied to the physical existence of the state and nation, and second linked to adequate protection of nation's identity, which is the best guarantee for economic and civilizational development. Both of these dimensions can be understood as "safe development" (Kitler, 2002, 48). This is especially important for Poland, which faces the historic task of the political and economic transformation and civilizational modernization. Failing to fulfill this job would be understood as pushing Poland to the margins of European civilization (Kuźniar, 1994, 176).

The strategic objective of Polish Republic is to provide a favorable and safe conditions for realization of national interests by eliminating the external and internal threats, reducing risk, and appropriate assessment of undertaken challenges and skillful use of the available opportunities. Polish security is affected primarily by the processes happening in the environment - in the region, Europe and the Euro-Atlantic community. One of the main goals of Polish integration with NATO and the European Union was to enhance national security in all its aspects. Polish accession to NATO has created international guarantees for political and military security, and accession to the EU raised the safety standards for social and economic development. However, the strategic partnership between Poland and the United States will be a pillar of our national security (Lisiecki, Raczkowska-Lipińska, Sitek, Pokruszyński 2009, 388).

Significant impact on the safety of has dynamic relationship the North Atlantic Alliance and the European Union. Polish membership in the EU has created conditions conducive to the economic development and civilizational progress, at the same time contributing to the security of the country. Poland is a country firmly embedded in the European and Euro-Atlantic structures. We are an active member of NATO and newly-creating European defense structures. In accordance with the purpose of NATO alliance security system should have the power and the means to fulfill three basic functions: risk prevention and stabilization of peace, crisis management and to win the war. This implies only military potential is not enough. Armed forces themselves are not able to meet not only the first two tasks, but also the third one. Currently, we must also use non-military instruments and measures. Only extensive cooperation, dialogue and integration processes, multilateral security concepts can solve global problems. Building coalitions, active cooperation, the use of diplomatic, political or economic instruments, will give better results in the formation of international relations than the use of military force.

Common strategic objectives of foreign security policy shall include: protection of the values and interests of the EU, promotion of international cooperation, creation of peace, promotion of democracy and the rule of law, respecting human rights and fundamental

freedoms. The guarantor of global security becomes a social organization based on the principles of democracy and the rule of law, prosperity, human rights and fair rules in the economy, promoting a culture of democracy. The role of the state in the military sphere may be replaced in the future by private corporations, military services, dealing with protection state authorities, companies and businesses, transport and supply troops. It is also expected that in the near future, non-governmental organizations, corporations will replace the national armed forces in peacekeeping missions and bringing law and order (Lisiecki, Raczowska-Lipińska, Sitek, Pokruszyński 2009, 389).

It should lie in the Polish interest that NATO remains a collective defense instrument of the Member States, while adapting its civilian and military capabilities to combat new threats. Polish interest is to strengthen the transatlantic community, and strengthening relations between the United States and the European Union, especially their cooperative spirit and complementarity in the field of security. Poland, as a close ally of the United States, wants to strengthen the involvement of this state in Europe, as a guarantee of political and military security on the continent. In the long term Polish safety largely depends on the ability of the state to face the challenges that go far beyond traditional security threats. These challenges are the result of political, economic, social, demographic and environmental processes which often goes far beyond the borders of the country. The ability of Poland to tackle them will determine the scope and course of the technological gap reduction between Poland and the developed European countries. The challenges include the need to complete the transformation of the Polish legal system, with particular emphasis on property rights. The challenge is to improve the infrastructure, in particular the creation of modern transport, telecommunications and network for the transmission and storage of energy. It is necessary to increase the efficiency of the administrative structures in order to optimize the use of development opportunities, which offers participation in the European Union and other international institutions. Among the external security threats of utmost importance it can be highlighted economy dependence on energy supplies - oil and gas - from a single source. To counter this threat, the state should seek methods to ensure that alternative sources of energy and diversified energy supplies. It is necessary not only to diversify supplies, but also increase the country's capacity to respond to adverse market, by strengthening cooperation in the framework of NATO and the EU. A potential threat to Polish interests would be the collapse of the European integration process as a result of the return of States to take action solely on the basis of national interests and ambitions to treat the EU as a counterweight to the United States, as well as the inability of the EU to create a common policy. The threat is also weaken the bonds between the transatlantic community, which would result in the separation of states located on both sides of the Atlantic. In order to achieve the strategic objectives it is necessary to use the full range of available political, economic, military and diplomatic instruments. The blurring of distinctions between internal and external aspects of national security requires a holistic approach. It is important to maximize the opportunities of Polish membership in NATO and the European Union and the partnership with the United States. It is important to consistently implement measures to strengthen the security of the state and its citizens, and improving conditions for the development of society. These include, in particular:

- strengthening political and economic sovereignty of Poland,
- ensuring the prosperity of society and improving the quality of life of citizens,
- modernization of the armed forces and development of their ability to interact with allied armies,
- strengthening the international position and image of Poland and increasing its participation in shaping the international environment.

The duty of the state is to strive to create the best possible international environment for the country and strengthen its international position, image and prestige. **The North Atlantic Alliance** is the most important form of multilateral cooperation in the political and

military dimension of security for Poland, and a pillar of stability on the continent, as well as the main platform of the transatlantic relationship. Poland will seek to increase the role of NATO as a forum for transatlantic strategic dialogue. This will reinforce the Allied bonds and increase the cohesion of NATO. Membership in the **European Union** to a large extent determines the basis of the Polish security. It increased substantially the feasibility of Polish security policy and the ability to act internationally. Poland is in favor of the development of the European Security and Defense Policy. Poland can make a significant contribution to the development of military and civilian capabilities of the EU crisis management system. It will gradually increase the commitment to European rapid reaction force, including participation in the creation of battle groups. The primary goal of the military security in the area is the readiness to defend the territory and independence Poland and its allies, elimination of military threats and counteracting possible, adverse changes in the military balance in the region. Poland builds its defense policies in conjunction with the principle of solidarity and loyalty to the Alliance. Readiness to assist any member of the North Atlantic Treaty strengthens deterrence capability, to ensure the safety of the Member States and NATO as a whole. The overall goal of the state in the field of internal security is to maintain the ability to respond - according to the situation – to the situation of threats to public security and public safety, for the protection of legal order, life and health of citizens and national wealth from illegal actions and the consequences of natural disasters or technical failures. The primary objective of the Polish Republic as a democratic state of law is to provide all citizens with a sense of security and justice. Particular emphasis should be placed on improving the functioning of the courts and the prosecutor's office, shortening procedures and ensure effective implementation of the decisions. An important element in ensuring the security of citizens is to ensure the security of trade through flexibility and simplification of legal procedures. Constitutional guarantees of rights and freedoms will be fully implemented, when the institutions of justice become widely available, rapid, and friendly to people. **National Security Strategy of the Republic of Poland** presents an official interpretation of Polish national interests, determines the strategic objectives of Polish Republic in the field of security, taking into account the goals for each executive subsystems. It also indicates the principles and directions of transformation of national security system. The strategy is addressed to all public bodies and entities performing security-related tasks. For the implementation of the strategy responsible are ministers in charge of government departments, heads of central, provincial governors, local government authorities and other entities, which statutorily entrusted relevant powers and responsibilities in the area of national security. After the entry into force of the new National Security Strategy of the Republic of Poland it is vital to develop or adjust strategies for the various departments of government, as well as the strategies of individual institutions entrusted with specific tasks in the field of national security. The main strategic objectives are as following:

- ensuring independence and territorial integrity and sovereignty of the Polish Republic in determining internal affairs of life of the nation, its organization and order of the State,
- creating conditions for the civilization development and determining the scope for action of the nation and the state,
- ensuring the possibility for citizens to fulfill constitutional freedoms, human and civil rights and creating safe conditions for a decent life for citizens and the material and spiritual development of the whole nation,
- providing opportunities to shape relations in the international environment and the capability for effective action through the defense of national interests and promote the image of a reliable participant in international relations, and implementation of alliance commitments, representing the credibility of Poland,
- ensuring safety, protection and care of Polish citizens staying abroad,

- promotion of the Polish economy and Polish entrepreneurs and supporting the construction of Polish prestige in the international environment,
- ensuring a sense of legal security of citizens of the Republic of Poland,
- protecting spiritual and material heritage (natural resources, property of individual citizens and collective national wealth) and providing conditions for safe development in all spheres of national activity, including in particular economic, social and intellectual spheres,
- environmental protection and protection against natural disasters and disasters caused by human activity, ensuring access to information,
- raising the level of education and creation of a strong national scientific and research base, combined with output potential, improving the competitiveness of the economy (Defence Strategy of the Republic of Poland, 2007).

Changes in military affairs include three levels:

- 1) technology - integrating high-technology with computer science;
- 2) doctrinal and operational - introducing new fighting techniques;
- 3) organization - leading to major changes in the area of civil-military relations (*Revolution in Business Affairs*).

Marcin Koziół distinguished four main factors affecting the RMA (Revolution in Military Affairs) which are:

- 1) the creation of a new international order, in progress since the beginning of the nineties of the twentieth century, ie after the end of Cold War confrontation,
- 2) information revolution, and thus change into information civilization that causes the appearance of new military technologies, such as advanced sensors, computer systems, precision weapons,
- 3) reductions in defense budgets of Western countries, which led to quantitative restrictions on the armed forces and the related need to reduce the level of compensation of military capabilities by placing special emphasis on the development of modern military technology,
- 4) situations of far greater importance in the global science, such as biotechnology revolution.

RMA is applied when introducing new technologies implies a change in the existing operational concepts, as new technologies entail a revolutionary change and force to take a completely different methods of warfare. The current revolution in military affairs is focused primarily on the issue of information management. Information management process is designed to obtain an advantage over an opponent on the modern battlefield (Ciupiński, Malak, 2004, 43-44).

Traditional national security meant military force, which was understood as follows; threat is aggression, and safety is a military defense. In the present era we perceive security not only in political aspect, but also as national identity, in economic, technological, ecological, demographic, social, humanitarian, aspects. National security should include internal and external aspects, which is dictated by security needs within society, as well as functioning of the international environment in which there are variety of risks and challenges (Koziński, 2010, 116).

The level of national and internal security internationally is conditioned by the economic, political and social development, which are influenced by the level of maturity of the society and the action of public administration when it comes to counter threats. Membership in NATO and the EU is the chance to support and strengthen the national effort to ensure the security of the state. Poland in NATO is safer than ever, and NATO is currently the most reliable alliance. An important issue is to ensure social security in periods of all kinds of natural and technological disasters, these activities are a subject of crisis management (Koziński, 2010, 116). Safety is the inalienable right of every human being and security is one of the basic tasks of the state, both in peacetime and in time of war. Security of the state should be prepared to fulfill its functions in ensuring safety of the organizational structure

of the state and the existence and development of its citizens in time of peace, crisis, in emergency situations (including war), as well as during the liquidation of the possible effects of risks. The implementation of national security policy requires a proper security system based on a combination and interaction of various elements, which until now operated independently (Lisiecki, Raczkowska–Lipińska, Sitek, Pokruszyński 2009, 389). The state of the security of the country affects the civilizational development (Lisiecki, Raczkowska–Lipińska, Sitek, Pokruszyński 2009, 389). The security policy of each state is an integral part of a global policy, in terms of both internal and external activities. Its task is to create favorable external and internal conditions for the political, economic and social development of the country and to prevent the probable risks which may occur in the future with more or less intensity (Lewandowski, 1982, 192 – 197). The nation and the state shall endeavor to ensure the biological survival, as well as high quality of life in following areas: the standard of living, style and quality of life, friendly and safe environment and cultural heritage (Wojnarowski, Wojnarowska – Szucha, 2009, 67 – 68). Number of challenges is not closed - at any time it can take new, at present unrecognized form, since security is changeable phenomenon.

Poland pays particular attention to developing close relations with the United States of America, which is the guarantor of international security. Poland calls for maintaining good relations with Russia, Ukraine, Belarus, which do not belong to the European Union and NATO, but play a significant role in shaping the international security policy.

The strategic objective of Poland is to ensure safe conditions for the implementation of national interests based on the foundation of national security, which is a defensive force of the state in the form of military defense system, proper and effective military strategy accordingly communicated to the crisis management system capable of ensuring the sustainability of peace, if necessary, effective defense of the Polish Republic.

# **II**

## **Authorities of the Republic of Poland responsible for the safety**



Military security management is one of the basic functions of all public administration authorities. The objective of the military management is to prepare and maintain the current national security system at all levels and manage its operation in peacetime, crisis and war.

The issue of shaping internal security undoubtedly affect theory and practice of organization and management. Polish experience with the perception of the importance of organizational solutions indicates that they begin to be noticed and not ignored. The maintenance of national security is a complex process and requires the inclusion of a comprehensive approach to the formation of safety, which absolute beneficiary is every citizen of the Polish Republic. The development of an efficient, effective, properly organized system of national security is the primary task of the Polish security policy. It consists of all responsible for security, in the light of the Constitution and applicable laws, authorities and institutions of legislative, executive and judicial authorities, including Parliament, the President of the Republic, the Council of Ministers and central government bodies. Important elements of the system are armed forces, services and government agencies obliged to prevent and counteract external threats, ensure public safety, salvage and protect of the population and property in emergency situations and to a certain extent provided by the Constitution and relevant laws: local authorities and other legal entities, including entrepreneurs creating industrial and defense potential.

The pursuit to create a fully integrated national security system is dependent on the implementation of appropriate legal and organizational solutions. Competence, skills and expertise of persons involved in the individual sub-systems has a huge significance for the efficiency of the system's operations. A very important role plays management subsystem, which consists of public authorities and heads of organizational units performing tasks related to national security and command authorities of Polish Armed Forces. Special role in the management of national security is assigned to the Parliament, the President of the Polish Republic and the Council of Ministers. The primary task of this subsystem is to ensure the continuity of decisions and actions in order to maintain national security (Defence Strategy of the Republic of Poland, 2007).

The provisions of the National Security Strategy of the Republic of Poland indicating the state authorities responsible for national security are closely related with the regulations contained in the Constitution, article 10: "The system of government of the Republic of Poland shall be based on the separation of and balance between the legislative, executive and judicial powers" (Konstytucja RP, 1997).

President of the Republic is included to bodies of executive power with the Council of Ministers in this Article. However this provision does not fully enumerate all constitutional organs of executive power, because it also includes the Prime Minister, ministers and committee chairmen, voivods. While analyzing the constitutional powers of executive authorities it can be noticed that a lot of attention is given to issues of national security.

Article 85 states that the defense of the Homeland is the highest duty of a Polish citizen. Strengthening national defense, implementation of projects on the protection of property of citizens and national property in the event of war, performing other tasks within the general duty to defend are the obligations of all authorities and the government and other state bodies, local authorities, businesses, agencies and social organizations and every citizen.

## **Competence of the President of the Republic of Poland**

Article 126 of the Constitution requires that The President of the Republic shall ensure observance of the Constitution, safeguard the sovereignty and security of the State as well as the inviolability and integrity of its territory.

The above statement assigns several tasks to President of the Republic within national security:

- "to safeguard sovereignty of the state" - special care to preserve the full exercise of

public powers by the state. The particular value of national sovereignty is emphasized in the introduction to the Constitution. The President shall not expose this sovereignty to any compromise, especially when representing the state. Sovereign power should be efficient and continuous.

- “concern for the security of the state” - monitoring and, where necessary, counteracting any possible risks associated with the functioning of the Polish state and its citizens. This requires particular concern for the efficiency of both Polish Armed Forces and the formation of public order including the police.

- “concern for the integrity of the national territory” - requires that the President counteract any attempt to conquest a part of the Polish territory, including the territorial waters.

- “concern for the integrity of the territory” - preventing the attempts of the political disintegration to Polish territory, formation of different rules of public life beyond the constitutionally permissible decentralization of power (which, ex definitione already has a possibility of differences). It includes, in particular, combating too strong binding of the border areas to foreign government units, but, of course, it does not mean opposing beneficial cooperation between them. The Constitution in Article 134 indicates that the President is the Supreme Commander of the Armed Forces of the Republic of Poland. However, this “direct supremacy” is purely of titular character and practically does not involve commanding the Armed Forces. Under this provision, the President does not receive any military rank. The Act of acquiring this supremacy, immediately after being sworn in, has a symbolic meaning and underlines the continuity of service of the Armed Forces to the state. Acquisition of supremacy is not reflected in an official document, issued by the President (protocol of this acquisition should not be regarded as such document).

Duties of the head of the Armed Forces during peacetime are exercised by the Minister of National Defence due regard for the principle of civilian control of the army and during war by the Supreme Commander of the Armed Forces, who shall be appointed by the President on a proposal of the Prime Minister. As the head of the Armed Forces of the President was obliged under Article 136 to order a general or partial mobilization and deployment of the Armed Forces in defence of the Republic of Poland. At the same time if the Sejm cannot assemble for a sitting, the President of the Republic may declare a state of war under the terms of Art. 116 Paragraph 2 on a proposal the Prime Minister. Detailed competence of the President in the exercise of the supremacy of the Armed Forces is established by law. The exercise of supreme authority over the Armed Forces is bound to award generals degrees and to appoint:

- Chief of General Staff of the Polish Armed Forces
- Commanders of the Armed Forces,
- the first officer rank.

However, the Act of 21 November 1967 on the common duty to defence the Republic of Poland determines the exercise of this competence on the request of the Minister, responsible for national defense (Article 5 paragraph 2).

The activities of the President, which are derived from his authority over the Armed Forces, are also:

- giving banners to military units under Art. 10 of the Act of 19 February 1993 on the signs the Polish Armed Forces, this document is not subject to countersignature,
- appointment, on the request of the Minister of National Defence, the first officer rank, the degrees of generals and admirals, and the degree of Polish Marshal in accordance with article 134 paragraph 5 of the Constitution and article 76 paragraph 4 and 6 of the Act of 21 November 1967 on the common duty to defence and depriving the general’s and admiral’s degree under art 78 paragraph 1 of that Act.

The authorization of the President pursuant to Article 234 of the Constitution to issue

regulations having the force of statute during a period of martial law, is the only situation in which the President can replace the activity legislative power. However, this extraordinary situation is limited number of conditions:

- the Sejm is unable to assemble for a sitting,
- the need for the application of the Council of Ministers (practically the Council of Ministers shall prepare a draft of the Regulation),
- content of such a regulation is very limited and includes situations under martial law (Art. 228 paragraph. 3-5 of the Constitution),
- regulations must comply with all provisions of the Constitution and must be approved by the Sejm at its next sitting.

On the basis of the general constitutional rule this power shall be exercised countersigned.

Other powers of the President relate to the possibility to declare a state of martial law on request of the Council of Ministers.

There are three reasons justifying imposing marital law:

- external threats to the State base on the existing international situation and the consequent real threat;
- acts of armed aggression against the territory of the Republic of Poland. This condition is similar to state of war which determines the Sejm pursuant to Article 116. If the Sejm cannot assemble for sitting the President imposes the state of war;
- obligation of common defence against aggression arises by virtue of international agreements. This premise is included in art. 116 paragraph 2 and entitles the Parliament of a resolution on the war. The convergence of competence between the Sejm and the President, can better ensure the interests and security of the State. The threat of this kind results in the need for close co-operation of central bodies towards the situation. It should be noted that regulation of the President on the imposition of martial law is subject to scrutiny of the Sejm, which can repeal it.

The effects for the legal entity caused by the imposition of martial causes are set out in Article 233. Due to circumstances and reasons of the introduction of martial law and its nature the Constitution does not specify the time frame of its validity.

A completely different dimension have reasons of imposition of a state of emergency. In accordance with Article 230 of the Constitution it can also be specified as:

- threats to the constitutional order of the State from the inner factors, such as the threat of a coup d'état and removal of the constitutional authorities of the country,
- threats to security of the citizenry as a result of the riots and destabilizing factors,
- threats to public order and functioning of the state.

Also, the President, acting on the request of the Council of Ministers, has the delegation to introduce this state.

The state of emergency may be introduce for a definite period no longer than 90 days, a in a part of or upon the whole territory of the State. According to article 230 paragraph 2 it can be extended with the consent of the Sejm once only for a period no longer than 60 days. In total, the state of emergency can not be longer than 150 days.

Article 231 of the Constitution requires that the President shall submit to the Parliament within 48 hours of signing the Regulation on the introduction of martial law or state of emergency. The Sejm shall immediately consider the regulation of the President. If you have any concerns about its legitimacy, could be repealed by an absolute majority of votes. Effect of the repeal of such regulation is to abolish restrictions on the freedom and rights of man and citizen, and return to normal functioning of the public authorities.

These actions clearly indicate the role of Parliament as a control body of the President.

Also, the Act of 21 November 1967 on the common duty to defend imposes on the President a number of tasks in the area of national security, including:

- approval at the request of the Prime Minister, the National Security Strategy,
- issuing, at the request of the Prime Minister, by order, Political and Strategic Defence

Directive and other documents implementing the National Security Strategy,

- approval, at the request of the Council of Ministers, national plans of defense exercises and directing their course,
- decision, at the request of the Prime Minister, to introduce or change a particular readiness state defense,
- asking all public authorities, central and local government, entrepreneurs, heads of other agencies and social organizations for any information relevant to the security and defense of the state,
- initiating and patronage to undertakings aimed at shaping patriotism of society.

The Act requires that the President shall, as a Supreme Commander of the Polish Armed Forces:

- determining, on the request of the Minister of National Defence, the main directions of development of the Armed Forces and their preparations for the defense of the state,
- participation in the briefings of management staff of the Ministry of Defence and the Armed Forces.

The President, under Art. 3 of the Act of 17 December 1998 on the rules for the use of or residence of the Polish Armed Forces outside the country, is competent to issue a decision on the use of military units outside the country:

- on the request of the Council of Ministers in order to participate in armed conflict and to strengthen the power of the state or its allies, or on a peacekeeping mission,
- on the request of the Prime Minister in order to participate in the action to prevent terrorist acts and their consequences.

Regarding particular matters, the President of the Republic may, convene the Cabinet Council, which is composed of the Council of Ministers whose debates shall be presided over by the President of the Republic. The decision to convene this institution is an independent decision of the President. It should be noted, however, that the competence of the Cabinet Council confine themselves to discuss issues of particular importance, and their arrangements does not have any formal binding.

The tasks and the role the President plays regarding internal and external security of the state is significant. He chairs the work of the National Defence Committee, which has jurisdiction in matters of national defense and security, executes its tasks with the National Security Bureau, which is managed by the Secretary of National Defense Committee, who reports directly to the President.

The Constitution in Article 135 indicates the National Security Council as an advisory organ to the President on national security. Its members are appointed and dismissed by the President. The tasks of the National Security Council are to express opinions on matters of internal and external security of the state, in particular, to consider:

- general security policies,
- assumptions and foreign policy directions for the external security of the state,
- strategic issues of national security, in particular national interests, internal and external security conditions, operational and preparative concept of security,
- draft national security strategy, Political and Strategic Defence Directive Poland and directions of development of the Polish Armed Forces,
- threats to the internal security of the state and measures to counter these threats,
- preparation of non-military issues of national security.

The members of the National Security Council are as follows:

- Speaker of the Lower House,
- Speaker of the Upper House,
- Prime Minister,
- Deputy Prime Minister,
- Head of the National Security Bureau,
- Minister of Foreign Affairs,

- Minister of National Defence,
- Minister of Internal Affairs,
- Minister of Administration and Digitization,
- Chairmans of parliamentary clubs,
- President of the National Bank of Poland.

The meetings of the National Security Council may participate, on the invitation of the President, former Presidents and former Prime Ministers and other persons invited by the President.

## Competence of the Council of Ministers

The article 148 of the Polish Constitution points to a particular role and position of the Prime Minister. His role starts with nominating him for the position by the President and can be seen in the course of the work to form a government. He also occurs in the Parliament with an exposé containing a program of the Council of Ministers and applies for a vote of confidence.

Records of the article 148 also states that he directs the work of the government, coordinates and supervises the work of its members. Managing the work of the Council of Ministers includes the convening sessions of the government, presiding its debates, thus he can effectively influence the course of a work and a content of undertaken resolutions. The Polish Constitution knows the only one exception to this rule, it relates to a sessions of the Cabinet Council, which are convened and are chaired by the Polish President.

According to the Polish Constitution, the Prime Minister is a Head of all government employees. He represents the Council of Ministers outside, at the request of the ministers he appoints and dismiss Secretaries of State and Undersecretaries of State in ministries.

In article 5 of the Act of 8<sup>th</sup> August 1996 on the Council of Ministers the Prime Minister assigned, inter alia, the rights to:

- designation of the Minister a range of issues, in which he acts on the Prime Minister's authority,
- requires information, documents and progress reports or particular case-reports or type of cases from the minister, a head of the central office or provincial governor and the employees of government administration after informing the competent minister, the head of the central office or provincial governor,
- orders conducting correspondencial agreements of standpoints of members of the Council of Ministers,
- convene, attend and chair sessions of the subsidiary bodies of the President of the Council of Ministers or the Prime Minister, regardless of their composition and a scope of action,
- convening session involving competent ministers, heads of central office or provincial governors and chairing them,
- getting over, ex officio or at the request of the competent authority or on application of party, the matters belonging to the jurisdiction of more than one minister or the head of the central office to settle designated minister by itself, giving notice thereof to all other competent authorities and parties,
- settlement of the scope of the action of ministers in case of a conflict of jurisdiction between the ministers.

According to article 6 of the Act on general defence obligation the Council of Ministers issued a regulation on the control tasks of defense, which gives the Prime Minister power to orders conducting extensive inspections within the general defence obligation. Inspections are carried out in relation to central government and non-governmental institutions and other organizations performing tasks within the general defence obligation. They are carried out to verify the accuracy of tasks and to define a state of a defense preparations in the state.

In particular, the preparation of the defense system is subordinated to be checked out, including the preparation of the defense management system of the state. As part of these inspections are checked out others elements of the national security management system. Their subject is also the permanent rostering system, which provides about a readiness of an operation elements of the management system under martial law.

At the same time in accordance with the records of article 10 of the Act on martial law in the event of having necessity to defence of the state the role of the Prime Minister does not undergo fundamental change, as well as in peacetime he works in the structure of government and directs its work. However under martial law, when the Council of Ministers may not meet at the session, to the Prime Minister must execute the constitutional competence of the Council of Ministers. In view of records of the Martial Law Act may be the cause in which, if it is necessary used the state defense, this defense will head the Polish President in cooperation with the Prime Minister.

Section 2 of the Act of 23 January 2009 on the province governor and the regional government points to the governor as a representative of the Council of Ministers and its competence in matters of national security. In art. 22 of the Act demonstrated that the province governor is responsible for the implementation of the policies of the Council of Ministers in the region, in particular:

- adapts to local conditions of the policy objectives of the Council of Ministers and to the extent and under the conditions laid down in separate acts, coordinates and controls the execution of the resulting tasks,
- ensures interoperability of all organs of government and local government operating in the region and directs their activities for the prevention of danger to life, health or property and threats to the environment, national security and public order, the protection of civil rights and the prevention of natural disasters and other extraordinary threats and combat and removing their effects, the principles laid down in separate acts,
- performs and coordinates the tasks in the field of the defense and security of the state and crisis management, arising from separate acts,
- submits to the Council of Ministers through the minister competent for public administration, drafts of government in matters relating to the province,
- performs other tasks specified in separate acts and established by the Council of Ministers and the Prime Minister.

Planning and implementation of defense tasks are coordinated by provincial governors, in relation to defense tasks which are carried out in the region by:

- subordinated managers and supervised organizational units,
- entrepreneurs for which they are founding bodies,
- local government bodies,
- entrepreneurs are not organizational units subordinated or supervised by the ministers,
- social organisation authorities.

The governor as the representative body of the Council of Ministers in the province, the head of the combined administration is competent body in the field of national security in the region.

The tasks of the regional government in the field of defense and public security determinate inter alia the Act of 05 June 1996 on the regional government, acts of 21 November 1967 on the general defence obligation the Republic of Poland and other legal acts.

Defenses of the Republic of Poland, the preparation of the population and national property in the event of war as well as perform other tasks within the general defence obligation system of the state belong to all authorities and the government and other bodies and institutions, organs of local government, entrepreneurs and other organizational units, social organizations, and also to every citizen in the range of specified by acts.

Article 2 of the Act on general defence obligation indicates inter alia that strengthening

of the defence of the Republic of Poland belongs to all the authorities and the government and other bodies and institutions, local self-government bodies.

General rules for performing tasks as a part of general defence obligation by governors, province marshals, district governors and voyts or mayors (city mayors), entrepreneurs and other organizational units, as well as social organizations identified by the Council of Ministers, by way of the Regulation of 13 January 2004 on the general rules of performing tasks as a part of a general defence obligation. It standardizes such issues as:

- the creation of organizational and technical planning and implementation of defense tasks,
- coordinate the planning and implementation of defense tasks in the branches of government administration and in provinces,
- cooperation of public authorities, entrepreneurs, other organizational units and social organizations in the planning and implementation of defense tasks,
- ensuring conditions of provide information and decisions regarding the planning and implementation of defense tasks.

In performing the tasks of defense public authorities, entrepreneurs and managers of other organizational units as well as social organization authorities take into account needs to defend the country, including in particular:

- maintenance, reconstruction and modernization of the national defense system, including the Polish Armed Forces,
- preparation of subordinate and supervised organizational units to perform tasks imposed on them defense tasks while raising the national defense readiness,
- preparation of the population and conditions its protection in the event of war and the protection of property, particularly valuable for national heritage.

Implementing act defining provincial marshals tasks in the range of national defense is Regulation of the Council of Ministers of 15 June 2004 on the conditions and a planning procedure and financing tasks performed as a part of preparation for national defense by the government and local government bodies. It pointed out that:

- provincial governors, with the help of, inter alia, provincial marshals and organizational units created by local government units carry out the tasks set for them in the so-called set of operational tasks,
- provincial marshals belong to the category of so-called preparing bodies in other words bodies performing, reconciling and updating an operating plan, defense program or document prepared as a part of defense review,
- provincial marshals in agreement with competent governors draw up operational plans of functioning province marshal's offices.

Article 7 of the Act of 5 June 1998 on the provincial government determines cases in which the relevant government administration authorities may require on a district responsibility for the implementation of specific activities in the field belonging to the district's responsibilities related to the removal of direct threats to public safety and public order and to a defense.

The same obligations, which were referred above, may be imposed on the district to perform outside the county. This action is related to removal of threats to the security and public order and the defense shall be carried out as a part of an organized action. For this activities a district is entitled to reimbursement of county necessary expenses and disbursements, together with statutory interest from the administration, which required the implementation of these activities.

## **Competences of the Parliament**

In political terms, both the Polish Sejm and the Senate has the characteristics of safety. It is inherently included in the competence of the Parliament.

Records acts or legislative acts that are the responsibility of the parliament guarantee the maintenance of the values of security and public order. At the same time they appoint suitable, highly specialized organs whose primary aim is to ensure security and order. An act as an act of the will of Parliament and at the same time an act which often regulate safety issues taken up by the Parliament.

Another expression of parliamentary activities in the range of security is to control the legal and political actions of the government, which one of the main tasks is to provide security and order.

The parliament is also entitled to take specific actions in the area of security. An example of this is in plenary parliament right to decide on a state of war and a state of peace, as well as its constitutionally provided interest during the procedure relating to the introduction or rollover states of emergency.

It is worth noting that these rights relating to a state of war and peace and participate in an implementation and an extension of states of emergency, they are based on current law only the powers expressly and directly related to a national security. Other measures relating to the security sphere are only bound, they are included in the legislative powers or as part of its verification.

Parliamentary subject of labour is also matters of the national security in the strictest sense of a word. An example of a direct connection to security are previously mentioned permissions concerning a state of war, a state of peace and a states of emergency and a legislation on the statutory level such as the Act on states of emergency, about the principles of using the Polish Armed Forces outside of Poland. Statutory rights apply also to express the consent of Parliament to ratify international agreements unless they relate to issues of peace, alliances, political or military treaties.

Besides in plenary chamber, other entity involved in matters related to security are themselves, members of parliament. They absorb on a constitutional as well as statutory level different instruments of interacting.

Individual control measures, which could include questions and questions times can be regarded as a tool by which parliament acts on the sphere of security and order but it depends on its subject and context.

It turns out that both the Parliament and to a much lesser extent the Senate, as well as individual parliamentarians have authorities that it may be focused on security issues. Although these issues are not the main or leading an area of interest and the properties of the chamber and its members. However, they can occasionally occur, in a sense “by the way” or they execute legislative authorities and when they reach for investigating powers.

An important role in ensuring the safety outplay parliamentary committees, which because of its profiled nature and regular activity, are subjects engaging in the largest extent in the matter of safety.

It applies to the committees that due to the scope of its activities, particularly are interested in security issues.

Other committees may participate in projects from the area of security in incidental way and be concerned only for selected aspects of security.

The most appropriate sejm bodies on matters of security are: the Administration and Internal Affairs Committee, the Special Services Committee and the National Defence Committee. They have the character of the standing committees, it means that work throughout a tenure. At the same time it is possible to invoke select committees, whose a task can be inter alia dealing with issues in the area of security. Select committees are appointed by the will of the Parliament.

With respect to committees it is important to note that they are not independent or separate bodies of the State but only internal bodies of the Sejm. This means that they always act on behalf of the Sejm, as the subsidiary bodies. Their mission is to support the work of the Sejm and essentially professional “instrumentation” of this work. Decisions and

actions of committees are decisions and actions of the Parliament. Regardless of friendly to committees powers and a degree of their independence, they are treated as support authorities, which do not replace a work of the Sejm. Commissions are internal bodies of the Chamber, they have a special status, such as because they are constitutional bodies, which status are devoid some of the other bodies of the Sejm. The will of legislator in this case was a clear visibility of the importance and seriousness of the committee. Works of committees based on the substantive aspects.

## **Competence of Ministers of National Defence**

A special role in the security of the state accounts for the Minister of National Defense, which is responsible among other things, for:

- managing in times of peace entirety operations of the Polish Armed Forces,
- preparing of national defense objectives, including proposals for a development and a structure of the Armed Forces, shaping, reshaping and stripping of military units and giving them jobs,
- implementing of general principles, decisions and guidelines of the Council of Ministers in order to defend the state and coordinating the fulfillment of their tasks,
- performing in terms of entrusted by the Council of Ministers a general supervision over the execution of the defense tasks by the government bodies, state institutions, local governments, entrepreneurs and other entities,
- performing overall leadership in matters of executing general defence obligation,
- managing the administration of personnel reserves for the purposes of general defence obligation,
- coordination of activities for the protection of classified information in the area of the national defence,
- defining aims, directions and tasks of military education,
- managing employment activities of the Armed Forces,
- managing performance of military service obligation, educating soldiers and issues of satisfying their social and living needs,
- managing issues of material, technical and financial need the the Armed Forces,
- implementation of the decision of the Council of Ministers in the range of participation of the Republic of Polish in the military operations of international organizations and in the fulfillment of military obligations arising out of international agreements,
- entering into international agreements resulting from the decision of the Council of Ministers, on the participation of Polish military contingents in international peacekeeping missions and humanitarian and military exercises conducted jointly with other states or international organizations,
- creating, establishing organizations and managing of activities of military delegations abroad,
- maintaining contact with the defense ministries of other countries and with military international organizations,
- managing business activities of the Armed Forces,
- implementing activities determined in acts in relation to military schools, military research and development units, state-owned enterprises, for which it is the founding body, military health care facilities, agencies and foundations.

The Minister of National Defence carries out its tasks under the Ministry of National Defense which includes organizational units therein cells forming the General Staff of the Polish Army. The Armed Forces are headed by the Chief of the General Staff of the Polish Army, on the other hand the ministry by a secretary and undersecretaries.

In matters relating to the structure, organization and activities of the Polish Armed Forces the Minister of National Defence decided after consultation with or at the request

of the Chief of General Staff of the Polish Army.

State security is its highest value and the highest goal, security is not the result of an accidental action it is rather developed model, which gives belief that it is fair, right and gives superior to more prudently side. Safe existence is indispensable to the entire international community and national communities, regardless of geographical location and membership in religious communities. Necessity of development of these communities, cannot be ignored, because we live in a world of constant increase of global relations, which impact more and more not only on international, but also local communities. Limits for passenger traffic and transport of freight disappears - on the one hand it favor socio-economic development, on the other hand it brings an additional threats to internal security (whether local, regional, national, and international) – these threats we define as cross-border threats.

Polish security cannot be limited only to territory of the Republic, it must include the experience of our neighbors and experience the world, especially the experience of the European Union [EU], of which we are a member and because of our geographical location, we secure the eastern border - we liquidate threats consequent from movement of people, goods and threats. Shaping security of the Republic of Poland we must take into account current and future security and cross-border cooperation between all Member States as well as those for which cross-border threats create risks to secure Europe and World. Transnational threats caused by human activities are perceived as the most dangerous, as research (Słomczyńska, 2007, 66-67) shows Europeans fears most:

- 77% of organized crime,
- 75% an accident at a nuclear power plant ,
- 74% terrorism,
- 65% ethnic conflicts in Europe,
- 62% the proliferation of weapons of mass destruction,
- 57% epidemic,
- 45% of the world war,
- 45% nuclear conflict in Europe,
- 45% of conventional war in Europe.

The biggest threat in border crime and border security are illegal migration (stay and transit), smuggling and forgery of documents, which entitle them to cross the border, increasing flexibility in the creation of gangs metastatic channels, methods and means of action and most importantly, their international and cross-border nature.

This publication refers to the Republic of Poland security threats caused by the actions of criminal groups on land, at sea and in the air. The study emphasizes the effects of cross-border threats because of difficulty in their identification and specificity of their camouflage organization of individuals and whole criminal groups.

## **The responsibility of state authorities for national security**

Shaping national security in terms of responsibility of the state can be considered in two ways. First is law, second is the impact on society, in particular in promoting the need to prepare the defense. In both, the most important tasks of state authorities are organizational and implementing undertakings. The result of such division is the creation of mutually binding rights, responsibilities and duties of the state, local governments and the public.

Article 146 of the Polish Constitution defines the responsibility of state authorities in ensuring internal and external security.

Richard Jakubczak determines that *the basis for an efficient national security management system is regulations establishing the powers of authorities and national security entities and*

*relations between them. Condition (value, excellence) of law and its enforcement mechanisms and executions - are an essential prerequisite for the efficiency of the state in all areas of life (Jakubczak, Marczak, Gąsiorek, 2008, 118).*

According to other opinions the national security policy is an intentional and organized activities of the competent state authorities, aiming to continue to ensure national security, as well as the participation of the state in the creation of international security. The activity of state bodies in the field of national security policy involves setting goals and objectives of security policy, defining national security strategy and coordination of various state authorities in ensuring the safety and building external conditions of national security (Jakubczak, Flis, 2006, 159).



# **III**

## **Transborder threats of safety**



## **The safety as the condition of existence of entity and social groups**

Aristotle (384-322 BCE), one of the greatest Greek philosophers, along with Plato (427-347 BCE) and Socrates (470-399 BCE) - they devoted to problem of security, war and peace much of their wisdom. According to Plato's views the state fills the role of servant to their citizens, it should provide them a safe life, peace and happiness. He defined the state as a community of specific social groups, that make up the ruling elite and have a decisive influence on the governance process - they should focus on some issues of internal and external security as well as on resolving various social conflicts. Aristotle was sceptical and objected to Plato's totalitarian state model, he was follower of the liberal state, he definitely was propagator of the good of the human person and the human community. His considerations on the security and existence of the state are still valid and on time.

Coexistence among nations based on the same values that should guide the cooperation between the human beings: on truth, justice, solidarity and freedom. Such co-existence of political communities that each of them pursues the common good of its citizens, and all of them together should aim for the good of all nations (Pope John XXIII, 1963, p. 292). In the belief that the common good of a nation is inextricably linked to the good of the whole human family (Pope John Paul II, 1963, pp.857-858).

St. Augustine (C.E. 354-430) thought is that "*nobody should feel safe in this life, which entire warfare is called*" – it is the advice to nations to behave alertness and caution and avoid reassuring and fell into the apparent safety (1995, p. 44).

Poland is a sovereign and democratic state in Central Europe with significant demographic, political, military and economic potential. It wants to pursue its national interests and aspirations of the citizens to secure a dignified life in a peaceful and stable environment. It creates favorable conditions for achieving prosperity for its citizens, while respecting the rights and democratic values. At the same time it wants to contribute to the consolidation of common values and the development of mechanisms for cooperation within the EU, in the Euro-Atlantic area and globally, to ensure lasting security in the world.

Today, Poland exists in a complex and extensive international environment. As a member of the strong politically, military, and economic organization of North Atlantic Treaty Organization [NATO] and the EU - is becoming increasingly an important participant in international cooperation. Membership in NATO and the EU as well as the alliance with the United States of America [USA] provides Poland a high level of security and together has become one of the main guarantors of its internal development and international position. Republic of Poland, as the border country of NATO and the EU, occupies an important place in the European security environment and its territory is an area of vital strategic importance.

Acquiring the status of a EU Member State by Republic of Poland caused enlargement and evolution the conception of national interest and the need to strengthen national and European identity of our state and citizens in united Europe. To attain that objective there are taken actions aimed at increasing citizens' identification with the state and the development of a comprehensive and equal integration, based on respect for common democratic and social values (Defence Strategy of the Republic of Poland, 2007, p. 3). The perception of safety of states in the post-Cold War period - when the international correlation consolidated, according to which countries follow to cooperative approach to security - both in the international and national level, thereby increasing the potential readiness to confront the threat. Considerations on international security are fundamental task and care of countries that are members of international relations, and the need to ensure it is one of necessity of an existential nature, without which it is impossible to satisfy the aspirations.

Changes in the international order as a result of the Cold War and the departure from the bipolar division of the world - for which, that order, caused different kinds of limitations. Definitely the international dimension of the relations in the last two decades of the last century has undergone radical change. It should be emphasized that the increasing globalization processes that cause qualitative changes, provoke volatility and cause the operation of international relations, especially between countries. Zbigniew Doliwa - Klepacki defines the international organizations which are participants in international relations as "participants in international relations are the relationship of sovereign states, caused as a result of an international agreement, with permanent bodies equipped in specified rights for the possibility of common goals (1997, p. 11).

That pre-determined basic elements of a representatives of the members impose in the competences and powers for their bodies to carry out its tasks arising from the treaty provisions, as follows:

- having permanent representative bodies,
- legal basis of the statute,
- intergovernmental representative bodies are secondary, derivative against sovereign states,
- these bodies must be authorities relatively permanent (provided existence in a long period of time), what distinguish them from the international conferences that operate temporarily,
- are structures created for specific purposes, to implement the statutory tasks.

Presented above are the multinational structures - they can be created by at least three countries. The EU is an unique participant in international relations - it is an international organization, although - what underline J. Kolasa - many lawyers object lack of legal personality, in spite of the status quo recognized by international bodies as a dynamic participant. Existed in Europe international structures contribute to the formulation of new concept of international security in the Euro-Atlantic region. Principal significance in this process has perception of occurred challenges in countries' policies and threats to their safety. Analysis of the documents adopted by all international institutions and structures, and thus NATO, the Western European Union [WEU] and EU, the Commission on Security and Cooperation in Europe [CSCE] and the Organization for Security and Co-operation in Europe [OSCE], the Commonwealth of Independent States [CIS], like also sub-regional groups, what indicates that they recognize the changed circumstances of European security. Feature of this phenomenon is the perception of security threats due to the persistence of still substantial military potentials, as well as the growing threats of a new non-military dangers. Most of these threats arise not as a result of the conflict of interests between states, but due to actions of anti-democratic groups, which manifest exuberant nationalism and xenophobia, transferred from external threats on internal threats (Multan, 1997, p. 28). Development of the institutional structure of the European system of international security run as a process of variable intensity and dynamics. This variation is the result of the evolution of the safety conditions of nations and European countries and progress on the road strengthening international security. The main factor that accelerates the pace of institutionalization of security policy concepts are represented by NATO and the EU. In the process of development and evolution of the institutionalization of international security in Europe can be distinguished in the following steps:

#### **1<sup>st</sup> step (1989-1991)**

The collapse of the bipolar system of security in Europe. The success of this period is that in the "Charter of Paris for a New Europe" (also known as the Paris Charter on 21 November 1990) countries of East and West Europe have recognized security as a challenge of undivided Europe of those times.

#### **2<sup>nd</sup> step (1991-1994)**

it was characterized by the formation and operation of institutional cooperation ties

to the benefit of the safety between western structures - NATO and WEU and former socialist countries at the opposite site - such as WEU Consultative Forum, the Partnership for Peace, and others.

### **3<sup>rd</sup> step (1994-1997)**

Because of realization of the NATO strategy of expanding the Atlantic Alliance, at that time increased disputes with Russia over the future shape of the European security system. A sign of the progressive institutionalization of security in the European and Euro-Atlantic range was renamed on 1 January 1995, the CSCE to the OSCE - and then began the weakened intensity and slow dynamics of this process. The OSCE began lengthy discussions on European security in the XXI<sup>st</sup> century. Factor limiting NATO's eastern policy was protracted internal discussions on the reform of the Alliance and realization of European Security and Defense Identity [ESDI] idea, whereas the EU dealt with its structural reform. After the dealing with internal problems both institutions have decided to commencement of expansion of new members. At the Madrid Summit on 8 July 1997, NATO invited the Czech Republic, Hungary and the Republic of Poland to begin talks on accession to Alliance, a week later, the European Commission announced the beginning of talks on accession to the European Union extension - six candidates were: Republic of Cyprus, Czech Republic, Hungary, Republic of Poland, Republic of Slovenia and Republic of Estonia. This was considered an epoch-making event in the postwar history of Europe and the whole world.

### **4<sup>th</sup> step (1997-1999)**

During that period finalized its decision to accept the first group of new members to NATO, this period was characterized by stagnation in the European Union's internal reform, and also the stalemate in the functioning and development of the WEU, the OSCE and the CIS.

### **5<sup>th</sup> step (1999-2001)**

The European Union, through the decisions taken on the European Security and Defence Policy [ESDP] and build their own defense system, started implementation of policies in the comprehensive transformation to the respected international actor.

In parallel, the EU has accelerated policy of opening to the West and internal reform. On 26 February 2001 was signed the EU structure reform - Treaty of Nice . At its summit in Göteborg on June 2001, the European Council agreed that after the ratification of the treaty EU will be ready to invite new members at the end of the year 2002, to enable them taking part in the elections to the European Parliament in 2004.

However, the OSCE, after almost 5 years of discussions, ended during the summit in Istanbul in November 1999, editorial works (which didn't contributed much to the process of institutionalization of European security) in a document titled "Charter for European Security". Generally, to summarize, we can underline that the institutionalization of European security after the Cold War is the process of building a new structure of international order. In conclusion, the new European order was established and European countries incessant continue building it. Next steps, in the further institutionalization, will be conditioned first of all, by the process of development European integration and transatlantic relations, it should encourage the building of openness to international cooperation as well as a continuation of current trends in social, economic and political development of countries and international institutions around the Euro-Atlantic region.

## **Transnational threats (cross-border) and their character**

Differences in the of civilization development of the countries, exhausting natural sources of energy, the rivalry of nations to survive, not fully controlled experiments and

inventions of weapons of mass destruction (chemical, radiological, biological), the effects of unpredictable forces of nature, the new mutated bacteria that cause human disease and flora and fauna, war and terrorism – these all are only a part of the sources of danger to the security of states and nations of the world, including Polish. These threats are **hard type threats - they are dynamic, for which the boundaries between countries are not constitute a substantial obstacle (do not preclude mutual penetration of effects) - they are so cross-border threats.** Similarly, treats to the security of states and nations of soft (creeping) type are such as political, economic, social, ecological, cultural and information - which may include range of one state, but also others, and not just the border. Thus far the world's dominant formula of the threats, which come mainly from internal state sources - should explicitly evolve and take into account the security strategies and policies of countries in the world, more than ever, a new source of threats - cross-border threats arising in other countries. They should be treated as a global problem, and safe cross-border area is a goal to which the countries of the world should work together. Among the new threats to the security of nations and states, the importance of gaining transnational (international) organized crime. As noted Phil Williams “the posed risk to national and international security, though indirect and invisible, is not an accidental by-product of long-range trends. This is a consequence of the activities of organizations that deny the legitimate state monopoly on violence, corrupt public institutions, and threaten the integrity of the financial and commercial sectors of society, these are organizations who simply ignore or violate the legal and social standards at both levels: national and international. Organized crime can operate in all areas of social life, and take a variety of forms of activity, is one of the described in the literature examples of “new risks” and “non-traditional risk” for international security. A phenomenon associated to organized crime, or rather its form, is drug trafficking (Mutimer, 1998, pp. 99-129). Drug production and trafficking are definitely some of activities of criminal organizations. Drugs can therefore be considered as a catalyst not only crime gangs, as well as guerrilla and terrorist organizations (Zięba, 2004, p. 24). Transnational organized crime is a result of the internationalization of the various spheres of life of nations and states, and one of the indication of increasing international interdependence. Quantitative and qualitative development of the adverse phenomena occurred in Europe after the collapse of the system of real socialism and the collapse of the Eastern Bloc. That's all because countries which were in the process of transformation, which liberalized their political systems and introducing market reforms in the economy, were particularly susceptible to the development of organized crime. Criminal organizations that ruthlessly exploit any loopholes, ineffective law enforcement and the general instability in the region, situate in the economy, trade and banking system, and attempting to corrupt the political elite, they use also transnational ethnic grid created by migration, establish cooperation with old criminal groups operating in the Western world and developing countries (Zięba, 2004, p. 98). In criminal activities they are also using the youth and even children. Children and youth from broken families foster care and those families in which is the lack of communication are particularly vulnerable to the action in informal groups, which sometimes spontaneously or under pressure from other criminal groups become participants of organized crime and as a result also cross-border organized crime (Łukjaniuk, Ćmiel, 2011, pp. 206-207). Especially dangerous is transnational organized crime, that is the type which is very difficult to countering because they are organizations (groups) which works for the underground. The main directions of its activities can be considered as:

- a) the consolidation of strategic alliances between criminal organizations to gradually merge (on the principle of osmosis) around the strongest groups,
- b) the use of terrorism - except for the traditional threats of violence also a threat with large range as an instrument of extortion (blackmail) to make a profit,
- c ) transition from corruption of political elites to direct control over political power

(development model “state outside the law”).

All of this leads to the conclusion that the threat posed by transnational organized crime will intensify rather than diminish. We have to bear in mind that organized crime groups are breaking the law in various countries, which often do not have agreements on cooperation in fight these threats, i.e. to extradition and legal assistance. In addition, these organizations, together representing a new kind of actor in international relations using “network of belonging” are very difficult to detect and control by law enforcement agencies and the judiciary. This network of belonging, the basis for existence of organizations are (often informal) ethnic and family ties of varying degrees of initiation, which are important defense mechanisms. These organizations pose a serious threat not only to the individual states, but also for the wider community, because they committed penal crimes with international ramifications. Therefore, we have to ascertain weakness of international criminal law. This raises the necessity to take coordinated activities by individual states and international cooperation to prevent and eradicate transnational (cross-border) organized crime (Zięba, 2004, pp. 103-105). States, regardless of their geographical location and relationships with the various international organizations that affect the shape of contemporary international security, unluckily are not fully prepared for an effective, independent counteract against cross-border threats - both in the prevention, operational activities as well as activities related to the stage of removal the effects of cross-border threats such as hard and soft type. Poland, as a member of many international organizations and structures that shape security in cooperation with the EU, as indicated by numerous examples from the breakthrough of the XX and XXI century, is not free from the reported problems. Counteraction of threats during cross-border states of emergency (in emergencies) should not be limited only to activities in national security system, but the observation and analysis of the problem, we might draw a conclusion that it is different. Lack of international and national legislation, regarding to the activities in complex emergencies, effective national and international security systems, strategy and policy of common security counteraction against the threats of soft and hard type - they all caused the problem of security in the world, including Polish security, opened for research and education of societies in the world - to learn them practical and rational reaction in emergency situations, especially in a very complex and dangerous - cross-border emergency situations.

## **Transnational (cross-border) organized crime**

Taking into account different types of organized crime except that it is illegal under the law as both international and internal, defined it as an illegal activity of non-state entities, functioning in permanent fixed internal structure, motivated by a desire of material benefits and applying for the attainment of its objectives by physical violence or other forms of illegal pressure - that type of crime qualifies for serious criminal offenses. Actually in currently in force international law regulations there is no universally definitions of organised or transnational crime. In broader interpretation, that issue was included in the United Nations Convention against Transnational Organized Crime (also called the Palermo Convention) of 15 November 2000, in which was introduced the term of “organized criminal group”.

*“Organized criminal group” shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.*

(Art. 2 of the United Nations Convention against Transnational Organized Crime)

The general trend of development in the field of activity of transnational criminal organization are (according to Madej, 2007, pp. 229-231):

- growing multi-branch (diversification of areas of their activity), almost all of the

largest, most active and fastest growing transnational criminal groups are currently involved in many types of crime at the same time, a narrow specialization and focus on only one type of activity (e.g. smuggling) or even a specific objects (usually on a certain class of illegal goods, such as drugs) is rare,

- a clear and steady increase in rank in the field of so-called “white-collar crimes” and crimes associated with the use of modern technology (called hi-tech crime) - they are now becoming more and more attractive option for transnational criminal groups, as a rule, they allow a relatively high profits, and usually does not require a particularly complex and elaborate structures or extremely large material resources,

- criminal groups are very diverse in terms of organization (internal structure, the relationships between the elements, established principles of communication and outreach activities) as well as the multiplicity of forms of criminal activity, projects likely to generate illegal income or activities which are the subject of criminal activity - such as the scale and range (also geographic) of carried activities, their diversity (the degree of specialization of the group, multiplicity and the number of illegal market segments in which it participates),

- relations between the institutions and criminal structures or entities conducting legitimate political, economic or social activity at the same time, and even with state structures, which have sovereignty - that all together leads to networking structures of criminal organizations.

## **The impact of transnational (cross-border) crime on safety**

The impact of transnational criminal groups on security of states is determined multidimensionality, and long-term effect and character of the situation in the country, which is subject to pressure. We can also assume, that the direct and short-term effect of activities of transnational criminal groups on the internal situation in these countries is - in the security dimension - rather limited.

# **IV**

## **State security towards the evolution of threats of contemporary world**



*Particle of the nation, must always be under the weapon.  
Without her one's whether strangers are throwing you out of home.  
Who is grumbling about the Army in order to not to pay on it, after the loss of everything  
Soon will lose his Homeland.*

*/Adam Mickiewicz/*

Collective security is a state which based on idea of renunciations by members of given system – United Nations or some regional organization. A member gives competence for other members for the attack on oneself, but also obligates to come to help to every member attacked by aggressor, who violate this system (according to definition of Łepkowski, 2002, pp. 16-18).

The safety in encyclopaedic definition (Petrozolin – Skowrońska, 1998, p.434) is:

*“politically-legal system, which aims consolidation of international peace, through establishing the ban on aggression and peaceful setting internal disputes – in this way safety express principle of collective self-defence. The system can have universal or regional character, i.e. it is spreading through all states of the region and also potential aggressors”.*

According to K. Neyman – Bundeswehr Chief inspector *“security is not all, but without security everything is nothing”* (Ferenz, 1996).

The size of threats towards which world is standing, permanently is being subjected to a detailed analysis in many states and on all continents. Results, of these analyses are communicated to top management states, politicians, political formations and are regularly published. Content of these results influences creating of social awareness. Perceiving world divided in powers having strategic nuclear forces and the appropriate systems of the conventional weapon - connecting them with existing political-military blocks or specific states - seemed not so long ago a utopia in the consideration of safety. For many years, mutual control of powers is spreading through determined areas. Military forces were, or were supposed to be, used according to strictly defined principles, codified in right doctrines. Furthermore, by means of reconnaissance and intelligence, it was possible to identify the symptoms of mobilization sites (Ciupiński & Malak, 2004, p. 50).

## **Threats of state's security**

The list of social and political changes that could be the reasons of future conflicts of a new, fourth generation (4GW, fourth generation warfare) was created by Thomas X. Hammes - it may be a basis of reflection.

The author identifies the changes in the modern world (Ciupiński & Malak, 2004, p. 50):

- End of the bipolar division of the world,
- Constant increase in world population,
- Lowering living standards,
- Dramatic epidemics (e.g. HIV / AIDS) in many countries, mostly Third World,
- The growth of various global network connections (e.g. Internet, TV),
- Ease of travel,
- Natural environment degradation,
- Increase in drug smuggling and links with the flow of money and corruption,
- Facilitate access to different types and kinds of weapons,
- Increase in activity transnational ideological groups.

Moreover:

- Destabilization of state political system,
- The massive human rights violations,
- Incorrectly functioning economic and social mechanisms,
- Social conflicts (strikes, society discontent or specific groups social) with which the

state cannot cope,

- Natural disasters (fires, earthquakes, floods, tsunamis, hurricanes),
- Extension of organized crime reach,
- Terrorism, which seeks to achieve its own benefits, which appear to obtaining hegemony in the region or the world.

Colin Powell, U.S. Secretary of State in the government of President Bush Jr., J. stated that the greatest weapon of mass destruction [WMD] today is:

**1. AIDS** - in the last 20 years that disease has killed more than 22 million people around the world, it is estimated that by the end of 2015 this number will increase to 25 million.

**2. Drugs and all its derivatives**, which mainly affect the degradation of society.

**3. Terrorism** - at the moment there are identified nearly 80 terrorist organizations, which are spread around the world.

These threats can lead to a destabilization of the state and its structures and also significantly affect the evolution of security because they are characterized by dynamics - the lack of any restrictions and rules of operation that requires significantly expand the areas of all predictions and have absolute vigilance against them (Ciupiński & Malak, 2004, pp. 50-52).

At the state security process has a significant potential impact the development of information based on modern achievements and technological solutions. There is an analogy and the parallelism between the field of military technique and technology of production of goods. Shortening the cycle time of **IDA (Information, Decision, Action)** enhances the effect of strategic, tactical or operational activities against the enemy. At a certain level, the IDA cycle differences that cause that a weaker opponent is unable to react and defend. In the terminology of the strategy we are dealing with the concepts of **CYBERWAR, NETWAR, and SOFTWARE**.

**CYBERWAR** is a form of electronic attack, which paralyzes the nerve centers of the enemy, so opponent will be paralyzed and even immobilized, what as a consequence, may lead to effective incapacitate the enemy for example, using precision weapons (Carlo, 2007, p. 195).

**NETWAR** has a double meaning. In the first - it leads to the abandonment of hierarchy for cohesion and unity regardless of the location of decision-making center. In the second - refers to the organization, which has no vertical structures only network, special example may be the terrorist organizations, international organized crime. Such structures that are in a state of permanent liquidity have a small number of weak spots that can be overpowered by a well-planned attack. Conducting netwar can improvise at some point in its own defeat in order that the opponent should be strengthened by tilting structures, which will increase number of its weak points that can be efficiently and effectively attacked (Carlo, 2007, p. 195).

**SOFTWARE** is a modern form of psychological warfare (propaganda, information and disinformation), which make the most of the formation of the facts causing a sensation among the societies, which can affect the morale of the opposing party, undermine the value system so that you can change its behavior to favor their own interests and intentions (Carlo, 2007, p. 198). Software does not require a substantial effort by which it is very effective - knowledge is infinity and renewable the size, used knowledge generates more distant knowledge.

All three rely on the power of information and knowledge that provide the power, and its progressive potential.

Despite all the discussion of security threats and preventing them it must be stated clearly that armed force is also a factor of order and chaos in the world.

Mackinder who formulated this thesis has and will have a global dimension of "*who controls the space circumterrestrial, reigns over the Earth*" while John Collins, "*who controls the moon controls the circumterrestrial space*". Future is not to kill-robots but to incapacitate, despite these challenges, this weapon has clear limitations in the obtaining further deterrence effect will have a traditional weapon (Carlo, 2007, p. 198). Hence,

they are still present in the life of an international conflict of interest, disputes, tensions, crises, armed conflicts. They are a source of vitality, pulsation, sometimes regression in international processes. There is a dialectic of both trends - arranging and disintegrating international life (Halizak & Kuźniar, 2006, p. 29).

*“Not always states have adequate resources to be able to effectively defend themselves: hence the importance and necessity of international and regional organizations that would be able to work together in addressing conflict and promoting peace, establish relationships based on mutual trust, so it would be absurd to resort to war”* (Pope John XXIII, 1963, pp. 288-289).

Development and dynamics of conflict and tensions depends on the scale of interaction between countries. Perceptions of conflict and tension in the early stages is difficult to identify because of the covert activities of the diplomatic structures that are subject to state secrecy due to the nature of action in defense of vital interests of the state. However, with the development of its own dynamics involved in the development or deterioration of the conflict of state interest, are involved international public opinion, is the impact on the governments concerned and involved in the situation of ambiguity and contradiction wider international community. Evidence of commencement of these processes are protests, denials, explanations, or denied the rejection. Next step is to formulate mutual allegations, accusations, demands, warnings and threats. Concerned countries run mutual hatred propaganda, psychological warfare, economic boycott (economic blockade) or the rupture of all relations. These tensions manifest themselves in the escalation of their top-level military alarms, announcement of mobilization, increased troop movements, the interruption of communication, blocking, limited the use of force and armed conflict. Transformation of a verbal dispute in the real conflicts have impact on the vital interests of the states - which will include the external security of the territory, population, and state power, as security of the existential interests of states. To ensure its own national security interests of the subordinate many coexistential and functional. Extending the state security threats causes tensions, fears and uncertainties, disruption of international relations, the arms race and other deformation of international relations. In the general approach, to solve the indicated problems one must first reject the militarization of political thinking in order to facilitate the policy detente and improve the climate of international relations through the smooth functioning of the general mechanisms - political news, analysis, decisions, mutual compromises and realization of taken arrangements. An important observation is that the creators and international policy decision-makers must realize that the process of detente in international relations proceeds slower than the pace of development of tension in which political leaders have influence. Vigorous growth of tension must be the constantly, conscious, purposeful and coordinated counterbalanced by cooperation of states in the process of effective international détente (Halizak & Kuźniar, 2006, pp. 255-257).

## **Building collective security**

After World War II the world has entered the path of building collective security. After World War II the world has entered the path of building collective security.

Collective security is a relatively late product of the changing international relations. The first-ever attempt to establish such a system was created in 1920 the League of Nations (LON). In contrast to alliances LON system was established to prevent conflicts between signatory states. The security community differs from League, because there occurs variety and extent of participation of countries regardless of their political system in the area.

A model of collective security system consists of the following elements (Halizak & Kuźniar, 2006, pp. 155-157):

- Abstention from the use of armed force between the participants,
- Dialogue and peaceful settlement of disputes between them,

- Observance of the general principles of international relations, which are important to maintain safety,
- Aggressor or state which violate adopted jointly rules - meet with the reaction in the form of sanctions, the nature of which will depend on the nature of his “misconduct” or threats to peace and security of others,
- The decision to apply sanctions, including in particular the use of force, in relation to the offending country and threatening the safety of others is taken by authorized bodies set up by members of the scheme,
- Mechanisms of reduction or control arms in the LON area,
- The whole system is enclosed in an international organization, which is a forum for the development of relations of cooperation between Member States, it based on a treaty or other international agreement, signed by all members.

The Charter of the United Nations was signed on 26 June 1945, in San Francisco, became the treaty, which laid the foundation for universal collective security system which consists of three levels of compliance:

1. Regulations and treaty obligations,
2. Decision-makers bodies and supervisory agencies of their execution
3. Procedures and implementing instruments (Halizak & Kuźniar, 2006, p. 158).

According to Article 1 par. 1 of the UN Charter a common goal is:

*“to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace”.*

The United Nations Charter lays down the generally applicable principles of law and international relations, which serve to maintain international peace and security as the foundation of collective security. Article 2 of the Charter says that UN members agree to settle their international disputes by peaceful means, refrain in their international relations from the threat or use of force against the territorial integrity or political independence of other countries, and to show all of the assistance in shares of the maintenance of peace and security. The organization has a duty to ensure that the principles of the UN Charter are respected by all Member States, but also by those who are not members, sufficient for the maintenance of peace and security. Safety in the structure of the United Nations is the domain of the United Nations Security Council (UNSC) which has the primary responsibility for maintaining international peaceful governance and security. Article 24 gives to UN Security Council possibility to act on their behalf of the Member States. UN Security Council is strictly limited. It is formed by fifteen states, including five so-called ‘great powers’ - the permanent members of the Council and the ten members selected for two years. The UN Security Council, unlike other political bodies of the UN, because of its tasks, works constantly with the possibility of convening immediately. In cases of procedural nature in accordance with Article 27, Council’s decisions are taken by a majority of nine votes, while in matters on its merits, which is related to its mandate, by a majority of nine votes in that with votes of all its permanent members. Rights and obligations of the UN Security Council are set out in detail in Chapters VI and VII of the Charter. Chapter VI sets out the role of the peaceful settlement of disputes, which continuance may endanger international security. The UN Security Council may call upon Member States to settle their dispute, may itself lead to his decision or to recommend a specific method of settlement.

Of fundamental importance are the powers contained in Chapter VII of the Charter of the United Nations *“ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION”*. In this section clearly defines the references and instruments through which the UN Security Council may fulfill its responsibility for maintaining international peace and security. First, it is determining the

existence of a danger or violation peace, or aggression, and what measures should be taken in a given situation. Second, take actions which does not require the use of armed force sanctions against the country that poses such a threat. Third, if the situation so requires or if previous measures have failed, the UN Security Council can manage military action with the land forces, sea and air, as it deems necessary. In case of application by the UNSC sanctions of any kind, all Member States are obligated to submit to its decisions, to respect the orders issued, including the supply of necessary force and its territory that may be necessary to carry out such actions (Halizak & Kuźniar, 2006, pp. 158-159). The Charter of the United Nations imposes an obligation on members of the secretariat and maintenance of standby forces, whose size and structure are determined by the Military Staff Committee (MSC), which is a subsidiary body of the Council (Article 47). An important instrument but not directly regulated in the UN Charter, used by the UN Security Council are peacekeeping operations - military interventions are conducted under leadership of the United Nations, whose main task is to maintain peace in the area of armed conflict, as between the warring parties there is a ceasefire. The appearance of the blue berets stabilizing the situation in the conflict zone. Despite many efforts of the United Nations including the Security Council - effectiveness of collective security system is limited due to the reluctance of many countries, especially Great Powers 'protected' with the principle of unanimity as permanent members of UN Security Council. Shortcomings in capabilities which are consistent with the UN Charter became a challenges, which aims to its reform. Evolution of changes in the process of collective security, included also the regional, which has to strengthen co-operative and peaceful nature of international relations in the region is the Organization for Security and Co-operation in Europe (OSCE). The OSCE has become is a continuation of the CSCE, and is the guardian of a regional system of collective security. The CSCE (also known as the U.S. Helsinki Commission) was created to coordinate East - West relations, the framework was signed on 1 August 1975 in Helsinki. On 1 January 1995 the CSCE was renamed the OSCE. Thanks to change the name of the CSCE to the OSCE. OSCE could be submitted to the UN as a regional organization under Chapter VII of the Charter - as a regional UN collective security system with a well defined catalog of rules for the stability of international relations and security in the region. The OSCE also has a well-functioning institutional structures specialized in international security matters, with its registered seat in Vienna. A shortcoming of the OSCE is that, unlike the UN, that there is no opportunity to make decisions about the use of strength. None of its armed forces opposed to NATO or the EU - the power of the OSCE is widely understood and well-developed operational strength of prevention aimed at preventing emerging security threats. The prevention consists of the following ventures:

1. The introduction of standards of political life (regimes) of the Member States - in particular: the rule of law, democracy, respect for human rights, including national minorities and everything that will conduce to internal stability and will allow to build international ties.

2. OSCE worked out forms of assistance in settling disputes so-called 'preventive diplomacy' in which are involved politicians, diplomats, experts representing the top management of the OSCE. This preventive diplomacy is manifested in the use of it in the long run by allowing building the foundations of internal law and order leading to overcome the crisis and achieve internal stability.

OSCE actions are very important in the process of disarmament and confidence-building measures. Through introduced limitations of conventional arms (CFE) Europe since the 80. has become an area of limited development of conventional forces with the possibility of predicting the behavior of countries in this sphere keeping the status of the organizer of collective security (Halizak & Kuźniar, 2006, pp. 164-165).

## International security and its aspects

The international community was relieved after the Cold War and no longer live in the shadow of the threat of nuclear conflict and its consequences for humanity. At the same time it soon became apparent that the end of one threat marks the beginning of others.

The full spectrum of what awaits us was revealed only after the terrorist attacks in New York City on September 11, 2001. Only after it was realized that Islamic terrorism has become the threat. Since that time started, in a global manner, to analyze the overall security situation with an international dimension. Then also revealed a correlation between the disclosed and also concealed threats so at the stage of arise (development) as well as those risks that have real dimension.

Kofi Annan - Secretary-General of the UN, presented a report published on 21 March 2005, in which clearly and obviously he presented the threats of the modern world. That report is a project of reform UN collective security system that diagnoses the current state of affairs.

*“Threats to international peace and security in the XXI<sup>st</sup> century are not limited to wars and international conflicts, they include internal wars and conflicts, organized crime, terrorism and the proliferation of weapons of mass destruction. They also include poverty, deadly infectious diseases and environmental degradation. All these threats can cause death or reduce the chance of life on a large scale. All of these can destabilize the country, which remains the basic unit of the international system”.*

Secretary-General of the UN attaches great importance - on the one hand to prevent disastrous terrorism and stopping the proliferation of weapons of mass destruction, on the other hand, to fight poverty and epidemics such as HIV / AIDS. Similarly, EU countries perceive a threat of safety. European Union in its security strategy, issued in December 2003 has identified the following types of threats (according to Halizak & Kuźniar, 2006, p 175):

- terrorism,
- WMD proliferation,
- regional conflicts (outside Europe),
- the collapse or decay of states,
- organized crime, which appear to be more diverse, less visible and less predictable.

There is a far-reaching agreement as regards the low-risk conventional interstate conflicts. Their number has dropped to a few per year, they are low-intensity conflicts, the parties seek to control their size. But we cannot exclude that this is a transient phase, in the future the international community can be expected with the outbreak of the conflict, which will become both - a participant and a victim. For the greatest threats it should be indicated - failed states/terrorism and weapons of mass destruction. In the early XXI<sup>st</sup> century, the number of failed states was estimated to about 40-50 - so about 20% of the total number of states in which do not exist or do not work institutions and governmental services. The societies of these countries can survive only thanks to external assistance, and simultaneously it remain the victim of operating relatively freely on their territory - partisans, terrorists, drug cartels and a variety of organizations of a mafia (Halizak & Kuźniar, 2006, p. 175).

Another circumstance having an impact on international security situation, it is a profound difference of potential ability to conduct military operations among the developed countries and the rest of the world. For definiteness needs to realize that the United States - home to less than 5% of the world population spend 661 bilions USD each year on armaments on the overall level of spending 1,18 trillions USD in the whole world. The first 15 countries (including Russia, China, Japan and Saudi Arabia) spend together on the reinforcement 82% of global total expenditure on armaments. In another interpretation, the NATO countries spend a total of nearly \$ 700 billion of the sum of less than a trillion dollars. The leader spend above 47% of it, and several other countries about 4-5% of total global military spending (SIPRI Yearbook, 2005, p.307). In all of the possible

approaches we can talk about flagrant asymmetry of spending between several countries and a strong military powers the rest of the world. A striking asymmetry is a derivative of the current phase of the revolution in military affairs (*RMA*), which is determined as revolution based on IT (*information technology*), which covered several countries that have sufficient potential scientific - technological and financial (Halizak & Kuźniar, 2006, p. 176). With this revolution, it is possible to improve of the effectiveness of intelligence, identification of a real fight, reconstruction of combat image, command and communication on long distances. The supremacy of the beneficiaries of the current RMA is also in the fact that they are gaining far-reaching security (integrity) in the course of its ongoing operations, thereby dramatically decreasing the opponent's retaliatory capability.

The most significant illustration of the possibilities which in this sphere gives the RMA, is an American missile defense system (National Missile Defense - NMD), which is to cover not only the whole territory of the United States. It is believed that the safety (no risk of severe reprisals), which provide themselves the most advanced military countries in the world (USA, NATO countries, Russia), causes that they are more inclined to use force not only in self defense or to ensure their safety, but also to maintain or forcing themselves favorable shape the international order. This large potential and ability to use it on the side of developed countries raises concerns on the side of the less developed (Halizak & Kuźniar, 2006, p. 177). This situation - increased arming on the side of one group of countries stimulates an arms race. Strategic dominance linked to economic domination, and with it goes the pressure of civilization, all together produces different manifestations of hostility and complexes which indicated in terrorist attacks and other acts against the interests of the powerful and wealthy. This type of situation is called asymmetric threats, which are generally created by pathological phenomena and non-state bodies. This raises the fear in the rich countries of the West. Such a threat is especially strong when there is an irrational, extreme understanding of religion as inspiration and justification for the war against infidels. The security situation post-Cold War begins to increasingly resemble the dialectic between strength and weakness. Asymmetric threats and conflicts are not so far as bloody and devastating as past classic struggle, but as shown by the attack of 11 September 2001 and during the war against Iraq (2003) - some contemporary incidents raise havoc with the affected and cause anxiety and uncertainty of the wider international community (Halizak & Kuźniar, 2006, p. 177). International security is subject of permanent transformation like the entire international order. In the current phase, where we are, the risks are primarily objective in nature, what means that their carriers are not so much countries, as phenomena, and not very readable non-state bodies. These new dangers do not threaten the independence or integrity of the country at least Euro-Atlantic group (including Poland). The dangers arise not in the form of force, arising from violation of the state border, but invisibly penetrate these boundaries and materialize inside country. Their origin in terms of the criterion of geography and the theme is not clear. Western countries that are interested in maintaining international stability, are forced to react by military forces in opposition to the terrorist threat, to remove the risks associated with the possible proliferation of weapons of mass destruction. The variety of threats, their unconventional nature, the difficulty of identifying their causes, civilizational and political changes - create problems in defining the nature of hazards and selection of appropriate responses. Problems of this kind are the more that they affect at the image of danger. Reaction strategies are almost exclusively state with the greatest potential military, whose security policy is not just a function of threats, but also to a large extent their regional or global interests but also include the ambition to shape the geopolitical balance of power or particular aspects of the international order.

The fundamental dilemma in the face of asymmetric threats is to determine the types of force, with which they must be combated. The point is whether to develop a more conventional armed forces for expeditionary opportunities, whether more funds should be

used for various types of special services, intelligence, immigration, emergency response and police. Another issue is the adequate assessment of the geographic extent of threats. Should we take the opinion about the risks of global interdependence and the need to cope with everything by everyone, or we will assumed that threats depend on range of interests of individual countries, especially major powers. About that the war with Iraq in 2003 is convincing us - to participate in this conflict felt obliged countries (including Poland), which had no interest in Iraq or in its vicinity by creating coalitions and ad hoc alliances (Halizak & Kuźniar, 2006, p. 179). An important problem is the case of prevention of armed and overtake actions. The current international law is not always adequate in the face of new risks posed by non-state bodies unbounded by international law. Violation of discipline set by international law, including the use of force by the powers that want to enforce justice in a way perceived by itself, can be a source of new dangers, aggravating those that accompany the powers in their operations (Halizak & Kuźniar, 2006, p. 179). How far may be restricted civil rights and freedoms in relation to the risks of a new kind of terrorism and terrorists? Lack of observance with international law reconciles both the legitimacy of military actions, efforts to control risk, and raises and at the other side - sense of grievance demanding answers and revenge. In the background there is the need for prudent action in such situations, so as not to cause unreasonable accusations about initiate war between civilizations or religions. On the other hand it cannot decide about determination the operation even when the perpetrators of threats are guided by religious motivation. These problems and dilemmas indicate significant difficulties both in defining the security situation and in determining adequate policies at the national and international levels (Kuźniar, 2003).

## **Needs and opportunities to resolve conflicts in the international arena**

Nations and the international community have different needs of entity and development. Every need can be viewed in three dimensions:

1. In real terms, it means a state of insatiate to certain conditions of being and development, e.g. natural resources, production, or institutional.
2. In awareness, it is a subjective feeling of a need for a particular lack e.g. of independence, sovereignty and international prestige.
3. In dimension of analysis - it is an objective property that is the need to provide conditions to maintain or achieve by the specific circumstances or purpose of such a consensus, or agreement for lasting peace.

The exposed dimensions of each of the needs - of people, nations and states are combined, although any change in the situation of an entity in its environment may cause coming one dimension into prominence. Regardless of the order of appearance of particular dimensions - all the needs of these entities are phenomena external to them.

They are phenomenons simultaneously necessary for:

- Secure the survival of nations and states in the international environment,
- Normal development and manifestation of their identity,
- Optimum playing roles at the international area.

So understood needs are certainly the driving force behind the perception of the world by nations and states, as well as being a prerequisite to the conscious direction of their international interactions necessary for satisfying their own needs.

Nations and states may experience the natural needs of three types:

- Existence
- To meet standards
- Recognition and prestige to stand out among others.

These needs arise from the objective conditions of existence of nations and states, including the state of relations between them, and at the same time create the conditions for self-fulfillment. In the initial phase these are only needs as primitive, unconscious and desire to satisfy them are spontaneous. When they are conscious, rationalized take the form of aspiration.

Aspiration needs are formulated and developed against the background of the experience acquired in the course of meeting existing needs and next maximize the needs and interests, which are generally expressed in the form of expectations, intentions and needs such as the expression of intent to join a stabilized group of countries.

During realization of the aspiration needs they transform into the operational needs, which manifest themselves as interests - a form of expression and direction of ongoing needs. Therefore, subjective performance of realization of given interests will lead to the formulation of the active entity point, thereby it is creating an internal mechanism for all the processes of international interactions. In this triad, interests and goals make confront the needs more dynamic with objective possibilities of satisfying them in various fields and dimensions of neighborhood, regional and global international relations (Kukułka, 2006, pp.252-253).

In foreign countries and their cooperation, first place occupy the existential interests and goals. They concern at three constitutive elements of the state - the territory, population and power. Include all the conditions and factors for their survival, integrity and security and respect for their identity and sovereignty. In the process of development of international relations existential interests and goals of their bodies appear to be important and therefore the most stable. Any attempt of undermining or violation of these interests undermines all other purposes. Thus, often relying on existential interests, euphemistically called vital - states, justify their own actions which disrupt international relations and undermine the interests of other countries. Optimal for the existential interests of countries is a state of international relations, when their population, especially in the circle of neighbors, confirm their identity and sovereignty and to give real evidence of desire for peaceful and creative international coexistence. This type of stabilization of existential interests is also the maximizing their in time (Kukułka, 2006, p. 253).

In second place are situated coexistential interests and goals of states or other bodies in international relations. They are oriented to the appropriate location of each entity in the international environment. Providing them the highest degree of autonomy and the maximum participation of the broader process of international interaction together could raise the position and enhance their international prestige. Therefore, states are trying to diversify, enrich and maximize their participation in international relations, and deriving the benefits. On this ground it comes to competition, conflict and international conflicts.

In third place are the interests and goals that support the processes of implementation of the two previous groups. They require the mobilization and use of all means of foreign policy in order to meet the interests of existential and coexistential proceeded in an optimal manner possible. The point is that foreign policy was compatible with the internal politics and to policy makers and implementers of foreign policy is still able to manifest an attitude oriented rational inquisitiveness and openness to the world and yet able to respond quickly to new trends in international relations (Kukułka, 2006, p. 253).

Outlined three groups of interests and objectives of countries can be applied to all countries. However, the scope and importance of each depends on the rank of country great or small, rich or poor. If a state will use an extreme interpretation of its "vital interests", this maxim will favor the development of the contradictions and tensions. But if a country tries to maximize its coexistential interests functional and above all, through various international initiatives, which are adopted by a particular community member, it contributes to the development of international cultural co-existence and raise their international prestige (Kukułka, 2006, p. 253).

The most glaring example of the cumulative impact of security threats and the escalation was a period of the Cold War in Europe, which, in time, manifested itself in the

process of detente as a result of warming political relations. Rejection of the militarized political thinking liberated from ideology facilitated the process of detente in international relations. As history teaches effective interaction of relaxation process depends on countries compliance with the following rules:

- Resolving conflicts, ranging from the political tensions before they reach the zenith, and engage the highest levels of state,
- Conscious self-limitation of its own (sometimes conflicting) interests and objectives,
- Seeking consensus among the partners to be able to control its future,
- Agreeing on mutual interests in a creative and a stabilizing effect on the development of international relations (Halizak & Kuźniar, 2006, p. 257).

International disputes generally relate to differences on the assessment of legal and political norms and factual situations. You can also restore the consensus by widening the range of reliable information, overcoming stereotypes, the elimination of prejudice and distrust, as well as respect for democratic principles in international relations. The highest proof of the good will of States on the settlement of legal disputes is the recognition of judgments of the International Court of Justice (ICJ). Traditional methods of action to prevent conflict and favour their solutions - consists in referring to the principles and norms of legal and international level and of existing international institutions, which remained from the Hague Conference of 1899 and 1907, providing for the regulation and the possibility of peaceful resolution of international conflicts using three types of treatments:

- Good services and mediation,
- Research committee,
- International arbitration (Halizak & Kuźniar, 2006, pp. 265-266).

On the borderline between traditional and modern means and methods of solving international conflicts are situated diplomatic negotiations, it is the way the oldest and most widely used in various cases of territorial conflict and the ethnic and religious ideology. Increasingly, direct negotiations that go beyond those forms, play the biggest role because they can be considered independently of the parties, but the rigid rules of peaceful settlement of conflicts. The advantage of such negotiations include that may be carried out when other diplomatic talks, which together affect soothing to discuss issues.

To range of modern methods of conflict prevention and resolution should be the creation of international standards, codes and based on these international institutions. UN members are obligated to apply peaceful settlement of disputes and resolve conflicts that may threaten international peace and security, while in others the parties have autonomy.

The most important condition for efforts to resolve international conflicts were and will be striving to provide each member of such an order in their environment, which will reign peace, law and order. Conflicts seem to be useful only for countries pursuing an expansionist ambitions or even imperial. For all other these are the bearers of uncertainty, disruptions and dangers. Conducive to the intensification of particularism, all kinds of ideological confrontation, political and military. Expansion and modernization methods of resolving conflicts helps to give the contemporary international relations characteristics of negotiated relations, rationalized, creative, collectively controlled, and therefore predictable.

At the turn of 1980s and 1990s much evidence of a new international order revealed, bipolar structure of the existing world order disappeared, the field of cooperation of countries and international organizations was extended by signing many agreements on the reduction or elimination of WMD. There have been taken many initiatives on overcoming the hostility between states, thereby increasing the confidence of international security in a global scale.

The hardest thing will be harmonization of the economic development of countries rich and poor, as it was demonstrated on the World Summit in Rio in June 1992 - economic and technological factors will be still unpredictable source of conflicts (Halizak & Kuźniar, 2006, pp. 267-268).

## National security

*National security* is variable in time and still evolving, it is dependent on the specific conditions of the country and its surroundings. In the literature, the concept of *national security* is defined as the process of creating such conditions that guarantee the existence of the state, ensure the sovereignty, territorial integrity, non-interference in internal affairs. The original etymological meaning determines security as the absence of risk, peace, safety and confidence, freedom from threats or attack (Marczak, 2008, 8).

According to Józef Marczak security means a process in which the security situation and its organization are subject to dynamic changes according to the natural changes in its security. Therefore, there is no such thing as a permanent and once established or organized safety (Marczak, 2008, 8).

The need for security is a consequence of the internal structure of society, the conditions for the functioning and evolution of the international environment, in which threats and challenges to society and the state arise.

The traditional definition of security indicates its relationship with the external threats, in this area foreign policy of the state plays the crucial role. Safety formulated as a primary foreign policy objective transfers internal needs, interests and values of a nation and its political system abroad.

The modern definition of *national security* is a social expectation to ensure benefiting from economic prosperity, social autonomy, and certain social status, and therefore it is the concept of existential needs and interests of communities organized in a state.

Security formulated as a primary foreign policy objective for the community transfers internal needs, interests and values of a nation and its political system abroad. It is core internal value that is protected under national security.

Today, the state should seek to strengthen its position in order to pursue its goals, strive for sustained peace and international security, take effective collective measures for the prevention and removal of threats against peace and repeal acts of aggression, by peaceful means and in accordance with the principles of justice and international law. The state should settle or resolve international disputes or situations which might lead to a breach of the peace.

## External security

The purpose of the policy and national defense system in terms of external security is to prevent political and military threats: readiness to defend Polish territory against armed aggression, ensuring the inviolability of borders, protection of state authorities and public institutions and ensuring their continuous functioning, protection of people and ensuring its survival in a crisis situation. Appropriate and necessary means to ensure the safety of Polish nation is common preparation of the defense of the nation, understood as a common national defense. Such character of national defense is defined by the Constitution Third Republic of Poland and the Act on Obligation to Defend (Marczak, 2008, 112). State defense system is responsible for the detection and identification of risks, managing defensive preparations in peacetime, crisis management, defense, of the state and participation in the joint allied defense in accordance with Art. 5 of the North Atlantic Treaty. Public administration authorities, armed forces and indicated entrepreneurs are involved in the defense planning process, which consists of operational planning and programming of defense. The size, organization and equipment of the armed forces must be constantly adapted to the needs of national defense, must be able to meet the need for compliance with international obligations of its allies, should match the capabilities of the socio-economic development of the state. Currently we can observe that static forces defending the territory are being replaced by modern, mobile, specialized units; it is affected by the nature of the new threats. The nature

of the new threats is due to increased need to develop and expand military cooperation with civilian structures to respond to non-military threats and to take rescue operations and anti-terrorist operations in the country and abroad. Protection of sovereignty and independence of the country and the maintenance of the inviolability of borders and territorial integrity are fundamental tasks of national security policy. Globalization cause that, safety of Poland, Europe and world is increasingly interconnected. Any initiative of local nature has its impact on the global arena of international relations, for example building in Poland missile shield (Hładkiewicz, Szczerbiński, 2009, 19). The state policy in terms of national security, should primarily be used to safeguard Polish citizens (both resident in the country and abroad), human rights and fundamental freedoms and democratic order in the country, creating the conditions for the economic and civilization development and prosperity Polish people, protecting cultural heritage and national identity, fulfilling alliance commitments, defending and promoting the interests of the Polish state. The main objectives of national security policy must be complimented with new tasks, which puts the current social, political, economic situation and which are appearing due to the changes of the world. Currently challenges that must be covered by national security policy, are related primarily to the issue of international terrorism, the tensions, instability and threats caused by terrorism. The threat of international terrorism and the proliferation of weapons of mass destruction comes mainly from the politically unstable countries ruled by authoritarian regimes. Poland - as a member of Euro-Atlantic community - is directly exposed to the risks associated with terrorism. Ensuring the security of the state in such conditions requires an active international foreign policy that will shape international security environment favorable for Poland. It comprises tasks such as: taking care of the efficiency of Allied mechanisms, the effectiveness of international institutions and international law, stable and friendly relations with partners, including with neighboring countries, concern about relations with the countries of the Central European region, participation in the strengthening of controls in the field of non-proliferation of weapons of mass destruction and their means of delivery, a willingness to participate in actions for conflict prevention and peacekeeping, the commitment to work for the protection of the environment, participation in activities for the promotion of democracy and human rights. *Poland enters the second decade of the twenty-first century, being firmly rooted in the structures of NATO and the European Union. The objectives set out in the early 90s were as a whole achieved by the Polish diplomacy. Although not without problems, integration with NATO and the EU was implemented as planned, and now Poland is one of those member states that work for further enlargement. Similarly, relations with the United States seem to develop in a favorable direction, the best proof the construction of the so-called Polish missile shield and further military cooperation within the NATO intervention in Afghanistan.* (Juralewicz, Wasilewski, 2009, 77).

## **The system of external security**

An efficient system for providing external security of the state must be complemented by activities in the area of internal security. It is composed of public authorities and other social and economic entities operating in the field of security and defense of the state. Within this sector, the most important role play civil defense, intelligence services, police, border guards, fire brigade, rescue units and other specialized agencies, inspection and service. Today's challenges make it necessary to create within a state a comprehensive emergency response system, and relevant state institutions must carry out actions to establish an integrated system of management in crisis situations. Effective crisis management system promotes consistent, precise regulation of the tasks and powers of the authorities and public institutions and civil society organizations in the field of national security.

The attention to robust socio-economic facilities is an essential component of effective

policy and national security strategy. A growing economy is the cornerstone of national security. Strategy and national security policy from the economic point involves providing material basis for defense: creation and maintenance of state economic reserves, ensuring food supply, energy supply, maintaining defense infrastructure, particularly defense industrial base, taking into account defense tasks in the implementation of spatial development policy of the country and conducting appropriate research and development. Ensuring the safety of citizens and the protection of national assets and borders of the Republic are becoming an area of domain of institutions and services operating in the field of internal security. The essence of a new type of threat is that their origins lie often in geographically remote locations, but may materialize in the country after uncontrolled penetration of the border. Thus, the importance of the internal aspects of security is growing. The tasks of the state in this area include: strengthening public order and the institutions that enforce it; prevention of organized crime, in order to improve citizens' sense of security, protecting people against dangers and consequences of natural disasters, environmental disasters and "bio-threats" such as epidemics of unknown and incurable diseases, providing effective and efficient protection of the state border in accordance with our international obligations, arising in particular from the integration with the EU.



# **V**

## **Defense readiness of the state**



## **Principles of action for authorities during state of emergency**

In situations of particular danger, if ordinary constitutional measures are inadequate, it may be declared a state of emergency:

Martial law in the event of an external threat to the state, an armed attack on Polish territory, or the result of an international obligation of defense against aggression.

The state of emergency in the event of threats to the constitutional order of the State, public safety or public order.

They are introduced by the Polish President at the request of the Council of Ministers.

The state of emergency in order to avoid the effects of natural disasters or technological accident exhibiting characteristics of a natural disaster and in order to remove them the Prime Minister can make the above condition for a specified period not longer than 30 days for part or all of the territory of the state. The extension of the 30-day duration of this condition can be made with the consent of the Parliament.

The state of emergency may be introduced only on the basis of the law, by regulation, which is subject to public disclosure. Principles of action of public authorities and the extent to which they may be restricted freedoms and rights of man and citizen at the time of the individual states of emergency shall be the force of law (Constitution of Poland).

During martial law, when the Parliament is unable to assemble for a session, the Polish President at the request of the Council of Ministers shall issue regulations with the force of law - Art. 234. 1 of the Polish Constitution of 2 April 1997 (Journal of Laws No. 78, item. 483).

During martial law, public authorities operate in the existing organizational structures of the state and within their competence - Art. 9 of the Act of 29 August 2002 on the state of war and the competence of the Supreme Commander of the Armed Forces and the principles of his subordination to the constitutional organs of the Polish Republic Journal of Laws No. 156, item 1301. The Act also allows the introduction of non-current functioning of the public authorities and the area in which it was introduced martial law, restrictions on rights and freedoms of man and citizen under threat intensity.

Defense of the country under martial law directs the Polish President in cooperation with the Council of Ministers.

The Polish President in accordance with art. 10 of the Act of 29 August 2002 on the state of war and the competence of the Supreme Commander of the Armed Forces and the principles of its subordination to the constitutional organs of the Polish Republic ( Journal of Laws No. 156, item 1301), under martial law, in particular:

- decided at the request of the Council of Ministers, to move public authorities for specific management positions and about the states of combat readiness of the Polish Armed Forces,
- determined at the request of the Council of Ministers, the task of the Polish Armed Forces in time of war,
- may appoint, at the request of the Prime Minister, the Supreme Commander of the Polish Armed Forces.

## **Defense readiness of the state as a national security category**

The defense readiness is implemented by the provision in the Act of 21 November 1967 on the common duty to defend. In 1963, higher states of military readiness, (regular, higher, and full battle readiness) were introduced, and in 1975 the fourth state - battle readiness - a threat of war was introduced. According to definition, J. Wojnarowski of 1997, published in

the article “The basic elements of the defense readiness of the state” - Defense readiness - is a state of national defense elements to ensure a gradual and flexible achievement of further defense readiness state, according to the scale, location and timing of security threats (Wojnarowski, 1997).

Other definitions of Defense Readiness: Military Thought (“Myśl Wojskowa”, 1973. Kulińczyk) defined the Defense Readiness as follows: Defense Readiness of the state - is a willingness to resist at any time and place the enemy on land, at sea and in the air; in 1975 L. Kuleszyński gave his habilitation thesis on military readiness of the armed forces and offered a definition of Defense Readiness: permanent readiness of the state to oppose the enemy aggression, the ability to defend the nation, its property sovereignty and political system, as well as strike the enemy; according to Lexicon of military science (“Leksykon wiedzy wojskowej”, Warszawa 1979) Defense Readiness of the state is a state of the defense system determining the capacity of the system in a planned and organized actions against national security threats, and during the war.

Defense Readiness of the state shall appoint two factors:

- external national security threats;
- internal socio-economic and military conditions.

Maintaining in time of peace, the country’s defense potential in a state of full preparedness is expensive and socially justified. By the decision of the highest state authorities system of defense readiness, which provides favorable conditions for the development of a fully national defense system was organized.

Defense Readiness of the state is defined as the process of maintaining the stable development of the national defense system elements to maintain national security in times of peace and crisis. Therefore the level of preparation of national defense represents a proper condition of constant state of defense readiness and have an impact on achievement of the higher states of readiness (readiness in the time of crisis and war).

The essence of the defense readiness of the state is expressed in the ability to undertake and carry out tasks included in the Emergency Response Plan for the Defense of the Republic of Poland, operational plans, mobilization plans and economic and defense plans to withstand a variety of risks, as well as to prevent armed aggression on Poland.

The purpose of defense readiness of the state is the effective functioning of the socio-economic and military base in case of a crisis situation and to prevent to escalate the crisis into conflict, or prevent any fights on the Polish territory.

This aim is accomplished through the implementation of projects:

- included in the Response Defense Plan of the Republic of Poland and the list of arrangements and procedures for crisis management system, according to the scale and nature of the risks, which may result in raising the defense readiness of the state, including the military readiness of the armed forces;
- preparation and implementation of the tasks of support by the host nation (HNS - Host Nation Support), provided to the allied forces residing in the territory of Poland or moving through it;
- related to the establishment and maintenance of strategic mobilization and economic reserves of the state;
- economic and defense projects, with particular emphasis on projects related to the mobilization of the economy and armed forces;
- political and diplomatic, economic efforts to maintain peace and head off a crisis.

Defense Readiness points to the practical actions of the administrative and economic organs of the state. It is not an isolated system, but integral part of a system of national security. It has a state-wide range and nation-wide importance. It applies to all spheres forming national defense system: institutional arrangements, businesses and public administrations that contribute to the maintenance of state defense readiness. It protects stable development of the national security elements, prevents threats and provides

response in crisis situations.

Defense Readiness state is a kind of defense system, yet scientifically undescribed.

Particular structures of state defense readiness include:

**Subjective:**

- State and preparation of emergency response structures;
- Preparation of staff management (command of the armed forces) of state defense;
- Maintenance of readiness of the armed forces;
- Preparation of staff reserve for mobilization of the armed forces and for non-military organizational units;
- The strength of non-military units.

**Objective:**

- Equipment of the armed forces;
- Preparation of technical equipment of national economy for the purposes of the armed forces;
- Preparation of state defense management positions (command of the armed forces);
- Sources of security forces and the operation of other non-military units:
  - capacity and renovation of the national economy,
  - strategic reserves and mandatory reserves,
  - cooperative import of arms and military equipment,
  - state infrastructure (social, economic, and critical).

**Functional:**

- documents relating to national defense objectives (policies, directives);
- organization of the armed forces in times of peace and war;
- defense plans and programs, including in particular:
  - Polish Defense Response Plan,
  - Economy Mobilization Program
  - operational plans,
  - plan to mobilize the armed forces,
  - plans (programs) of training of the armed forces and defense training in the country;
- documents imposing extraordinary state in the country (in situations of particular danger) martial law, in case of emergency and natural disaster;
- decrees restricting freedom of citizens in times of crisis and war;
- documents of control of the defense readiness;
- documents directing the defense of the state.

The structure of state defense readiness indicates the main issues that are transformed into the specific tasks performed by all the resources of the state.

The most important tasks carried out in the framework of the state defense readiness include:

- Preparation of economic units to the functioning of the state administration and defense tasks during crisis and war;
- The creation by ministries economic and administrative supply base in case of crisis or war;
- Maintaining a constant defense readiness in economic and administrative units of the state.

## **Defense readiness and defense readiness status**

Defense readiness of a state can be defined as a state and a process to maintain the stable development of the national defense system elements to ensure national security and effective operation in emergency situations, with the ability to resist any threat of crisis and war. Raising the state defense readiness in case of an external threat to the country's security is based on the introduction of higher states of defense readiness of the state.

Passing to higher defense readiness states follows with conversion of the national economy, including the achievement of the capacity of the economy and the administration to secure mobilization needs and selected armed forces as well as providing everyday needs of the state in times of crisis and war.

Council of Ministers with a regulation (Council of Ministers Regulation of 21 September No. 219, item. 2217, 2218) established following states of defense readiness:

- Constant defense readiness of the state;
- Constant defense readiness of the state during crisis;
- Constant defense readiness of the state during the war.

## **Constant defense readiness of the state**

Constant defense readiness of the state is a condition in which there is no significant external national security threats and the state maintains the strength and readiness resources for the implementation of defense tasks. It is a state proper for the time of peace, in which the authorities and public institutions lead defense preparations in its current operations.

In constant defense readiness state planning, organizational, training and monitoring activities are carried out to maintain the efficiency of the defense system of the state.

It keeps the armed forces and other protective and defensive forces (Police, Border Guard, National Fire Service) (Act of 6 April 1990 on the Police No. 30, item. 179; Act of 12 October 1990 No. 78, item. 462; Act of 24 August 1991 No. 88, item. 400) in constant military readiness and operational capability to take action, with the ability to run defensive tasks scheduled for times of crisis and war. Armed forces are trained according to certain regime, keeping their mobilization readiness and planning permanent shifts and combat duties. Separate military units are prepared to participate in peacekeeping and humanitarian operations.

Force and emergency measures are also maintained to eliminate the consequences of accidents, catastrophes and natural and ecological disasters cleaning environment with dangerous and explosive objects, monitoring pollution and helping victims of disasters on seas and in the air.

The implementation of projects maintaining a constant defense readiness and the introduction of higher states is to ensure an adequate level of the state response to threats. It is used to prepare and maintain readiness to use all forces and resources in the national defense system, which must operate continuously maintaining the necessary ability and willingness to develop the potential of the state for the purpose of countering threats, including threats to external security. It is vital to create a comprehensive national emergency response system that will be response to today's security threats both international and domestic. State institutions work to integrate the system of leadership and management in case of crisis. It is necessary to regulate coherent tasks and powers of the authorities and public institutions and NGOs working in the field of national security. It is noted that the effectiveness of security policies and strategies requires attention to reliable socio-economic base. The economy is one of the fundamental guarantees of security of the state, which role in this regard is based on material security defense tasks, including the creation and maintenance of economic and mobilization state reserves, , ensuring food security, energy supply and defense infrastructure maintenance, especially relevant defense industrial base, taking into account in defense tasks in the implementation of the national spatial development policy (Koziej 2008, 13).

## **Constant defense readiness of the state during crisis**

Constant defense readiness of the state during crisis is introduced in case of an external threat to national security that requires the mobilization of selected elements of the defense system and implementation of tasks set for this condition. Tasks to ensure the preparation to counter external threats to national security and removing their effects are carried out.

This condition determines the need to develop partial defense capabilities in face of threats by armed conflict or war and the need to participate in the Alliance's defense outside Polish territory. It is manifested mainly in the mobilization security and operational development of the armed forces, and in economic and defense units (non-military subsystem) realization of the tasks arising from the operational plans, including the Economy Mobilization Program.

## **Constant defense readiness of the state during war**

Constant defense readiness of the state during war is introduced in order to counter the direct armed attack on Polish territory or when the international agreements imply a commitment to a common defense against aggression.

Constant defense readiness of the state during war is achieved in tasks allowing general mobilization, imposition of martial law (The Act of 29 August 2002 No. 156, item. 1301) and a complete preparation state defense system to resist military aggression.

Tasks realized particularly during Constant defense readiness of the state during war:

- The introduction of martial law in the country,
- The introduction of martial state defense management system,
- Mobilization and operational development of the Polish Armed Forces and the attainment of their readiness for operations,
- Starting the process of militarization of the departments and collection of vehicles, machinery and equipment by organizational units for the benefits of national defense,
- Preparation of all the units in the state defense system to resist aggression,
- Starting the mobilization of the economy and the release of strategic reserves,
- Conducting operations and preventive reconnaissance and achieving operational readiness to perform counter-sabotage tasks and anti-terrorist to protect the country,
- Securing the transport of troops by rail and vehicles to areas of operational responsibility,
- Technical protection of designated road routes and rail,
- Protecting everyday needs of the people and creation of conditions for their survival.

According to Defence strategy of the Republic of Poland (Chapter 3, Section. 73, Warsaw 2009). Protection and ensuring of the domestic needs of the population mainly include: supply of food, water, medicines and medical devices, basic consumer industrial goods and petroleum products, electricity and energy, alarm, evacuation, rescue, buildings protection, ensuring the supply of formation of civil protection equipment, materials and protective measures, elimination of contamination and infection, health, freight and passenger services, care of children and young people and people with disabilities.

In case of implementation of higher states of defense readiness of the state (defense readiness during crisis and during war) tasks included in the Emergency Response Plan and in operational plans will be carried out.

According to § 5 of the Council of Ministers Regulation of 15 June 2004 on the conditions and procedures for the planning and financing of tasks performed as part of preparation of national defense by the government and local government bodies (Journal of Laws of 2004., No. 152, item. 1599, with amendments).

These tasks are carried out taking into account the priority of tasks performed for the Polish Armed Forces and allied forces and to launch national security management system. These tasks can be implemented in an implicit way. Implementation of the tasks related

to the increase of defense readiness coordinate state ministers and voivods. (Council of Ministers Regulation of 13 January 2004 No. 16, item. 152).

## **Combat readiness of the military subsystem**

The combat readiness of the Polish Armed Forces is a key component of national defense readiness. It is an organized set of principles and rules implemented in the Polish Armed Forces and helps to keep the military capability to take action to ensure the safety of the state.

The idea behind the system is to maintain a specific combat potential of the armed forces to immediately respond to arising situations and threats and to ensure the development of organized military units and achieving their ability to deliver within the specified time combat tasks.

The fundamental document regulating a problematic aspects of combat readiness, mobilization and the Military Command System in the Armed Forces is *the directive Chief of General Staff of the Polish Armed Forces of combat readiness and mobilization the Armed Forces*. Its provisions were drafted more relevant *Specific guidelines*, instructions, defining the tasks and procedures for contractors on various levels of the Armed Forces.

The directive Chief of General Staff of the Polish Armed Forces of combat readiness and mobilization the Armed Forces is periodically introduced in the Polish Armed Forces at intervals of approximately 5 years (most recently in force from 2010).

According to the decision of the Minister of National Defense findings contained in the above-mentioned directive and instructions specify its provisions applies to all military units of the Polish Armed Forces, the organizational units of the Ministry of National Defense, the organizational units subordinated to the Ministry of National Defense or supervised by him.

According to the adopted solutions the Polish Armed Forces maintain a constant readiness for actions, and can reach a higher states of readiness at the operational levels.

Since 2010 the Armed Forces there are three states of combat readiness, for these levels of command that are compatible with the states of national defense readiness.

Under the current directive, combat readiness and mobilization are states whose interpretation is as follows:

### **Constant combat readiness**

*The Polish Armed Forces maintain their readiness to guard the state border; smooth transition from peacetime structure to the structure of the war; if necessary, their strategic development over the military threat to state security or war; to participate in peacekeeping and humanitarian international organizations, and to eliminate the effects of non-military threats. Moreover, they are prepared and maintain the necessary forces and resources provided to strengthen the protection of allied forces.*

In this state of combat readiness are carried out essential tasks for: planning, training, maintenance of technical material resources readiness to act, maintenance of mobilization readiness of the system, the realization of emergency response, complement national reserve forces soldiers peacetime positions, elimination of the causes and effects of the crisis non-military, preparation for the adoption of the remaining reserve personnel and materials during the war.

### **Increased combat readiness**

*The Armed Forces are brought to a state of readiness to ensure the achievement of strategic protection against security threats within the country and eliminate the consequences of non-*

*military threats. Activate forces and means provided to adopt and secure allied reinforcement.*

In an increased state of combat readiness follows initiation of crisis allocations, contribution of set up military units in liquidation non-military crisis, preparation of the armed forces for the realization of the war, possible initiation of the partial mobilization of the armed forces.

## **Full combat readiness**

*A state - process by which the armed forces make mobilization in terms appointed in the mobilization plan the Polish Armed Forces (Army Unit in action plans) and achieve an ability to perform combat tasks according to their operational use.*

Full combat readiness should provide an achievement of ability the armed force to military Defense of the state and realization tasks resulting from a collective protection of needs. Implementation of this state of combat readiness projects should ensure operational and motivational extension of all the armed forces as well as achieve an ability to undertake combat operations according to a military situation and a possible threat to the security of Poland, also carrying out combat tasks arising from allies needs.

The state of full combat readiness can be entered directly from a constant or increased combat readiness. In a state of full combat readiness it will be implemented following essential tasks: completing military units during the time of war, ripping combat military units, moving into areas of operational purpose and achievement in their full combat readiness.

A constant combat readiness is maintained on tactical levels (military units) and is achieved to take action after the realization of mobilization tasks.

## **The permanent rostering system**

In order to provide continuity communications of decisions of bodies authorized to run realization of tasks included in the Poland's Defense Response Plan (RPDRP) formed in a constant state of state Defense readiness the permanent rostering system.

Act of 21st November 1967 on the common duty to defend the Polish Republic and the Council of Ministers of 21st September 2004 on the state of defense readiness. Article 6 paragraphs 1 of the Act provided that the Council of Ministers made under the provision of external security of the state and providing overall leadership in the field of national defense should include preparing a permanent rostering system for the duration of external threats to national security and the war. However, in the Regulation of Council of Ministers on defense readiness, in addition to state defense readiness condition, their types and conditions of entry and the tasks related to the increase of defense readiness state, determined the organization and tasks of creating a permanent rostering system for raising the defense readiness of the state.

The permanent rostering system consists of:

1) **the Prime Minister** – to needs for providing decisions to run realization of tasks included in the RPDRP: ministers, a committee chairman, who are part of the Council of Ministers, the central state administration bodies, subordinated managers and supervised organizational units and province governors;

2) **ministers** - to needs for providing decisions: subordinated managers and supervised organizational units;

3) **governors** - to needs for providing decisions: province marshals, province governors, district governors, commune heads, mayors and mayors of the city, non-combined administration bodies, heads of combined services, inspections and provincial guards, subordinated managers and supervised organizational units and province governors, entrepreneurs, other organizational units and social organizations, selected to perform

certain defensive tasks established in the province.

The tasks of the permanent rostering should be run, in terms of national security threats, procedures related to the increase of defense readiness of the state and providing decision of the authorized authorities on the mobilization of specific tasks resulting from the introduction of higher states of the state defense readiness and disseminating to the competent authorities of the status of forces that run at increasing defense readiness of the state. A permanent rostering is organized in a hour duty service.

**Principles of running the permanent rostering.**

1) in the state of constant national defense readiness, in the state of crisis time national defense readiness or in the state of wartime national defense readiness on the basis of the decision of an authorized authority to run a permanent rostering

2) decision on the mobilization of the permanent rostering may be given:

- directly - orally by the an authorized authorities to run the permanent rostering,
- indirectly - by people authorized in writing by certified signature and official stamp of the authorized authority to run the permanent rostering,
- writing – by delivery or transfer of an appropriate document,
- by technical means of communication

# **VI**

## **The management of national security system**



In the defense of the country to tasks of the Council of Ministers performed in order to provide external state security and to provide overall leadership to include establish the organization and a mode of preparation of national security management system, including the defense of the state as well as the functioning of the public authorities in management positions.

Defence is regarded as one of the areas of the state security, on the resist external political- military threats using all held forces and military and non-military means by the state. It consists of organizational and information related authorities and government (including government offices and the necessary supporting infrastructure ) and heads of organizational units that perform tasks related to defense and command authorities of the Polish Armed Forces. The Polish National Defense Strategy presents assumptions of functioning national defense. It specifies tasks and a structure of the national defense system and sets out the main directions of development of each of its sub-systems. The Polish National Defense Strategy is a specifying document and developing defense records contained in the National Security Strategy of the Republic of Poland. The point of management of defenses of the state is to take by the relevant authorities decisions and actions to run the state's defense capabilities through the introduction of increasing defense readiness of the state and running operational tasks , in order to counter the ensuing threats. The bodies of state – the Polish President in cooperation with the Council of Ministers - direct defense of the state according to its competence specified in the Polish Constitution and the laws. In the decision making process related to the defense of the state includes the correlation between Polish authorities and authorities of the Member States of NATO and the EU (including the chain of command between the Armed Forces and the corresponding commands of NATO) , as defined in adopted treaties and protocols .

Act of 21 November 1967 *on the common duty to defend Poland* (Journal of Laws from 2004, No. 241, item. 2416, amended) indicates the statutory delegation for the state authorities listed in art. 6 paragraphs 2 point 2, while its performance is the Regulation of the Council of Ministers of 27 April 2004 *on the preparation of national security management system* (Journal of Laws No. 98, item. 987, as amended) hereinafter referred to Regulation.

The management system includes public authorities and heads of organizational units that perform tasks related to the management of national security and the authorities of command of the Polish Armed Forces, including the Supreme Commander of the Armed Forces, upon his appointment.

This system is composed of all the responsibility for security in the light of the Polish Constitution and applicable laws bodies and institutions belonging to the legislative, executive and judicial. Special position in the system belong to the Parliament, the Polish President, the Council of Ministers and central government authorities and the Armed Forces. The system also includes services and government agencies committed to preventing and countering external threats, ensure public safety, salvage and protection of the population and property in emergency situations as well as local authorities and other legal entities, including entrepreneurs creating potential industrial and defense .

The regulations contained in the Regulation are part of creating and developing the ability to coordinate and integrate the efforts of particular authorities, institutions and government departments, which are consequently to be given the nature of the national security system, fully integrated, coherent and structured whole.

The management system is prepared in order to ensure the continuity of decisions and actions for the maintenance of national security, including:

- monitoring sources, types, directions and scale of threats,
- prevention of formation of threats to national security on Polish territory and beyond its borders,
- preventing effects of national security threats and their disposal,
- national Defense command and control.

In accordance with Art. 10 of the Act of 29 August 2002 on the state of war and the

competence of the Supreme Commander of the Armed Forces and its subordination to the constitutional principles of the Polish authorities (Journal of Laws from 2002 No. 156, item 1301), if at the time of martial law there is the need for national defense, defense is headed by the Polish President in cooperation with the Council of Ministers.

Preparing the management system includes planning, organizing and realization of projects to ensure authorities to carry out tasks related to the management of national security in time of peace in the event of an internal or external threats to national security, including in the event of terrorist acts or other special events, as well as in time of war. These projects include:

- preparing authorities and support their agencies to function in a management system, in particular by: carrying out a human resource policies in the staffing business for the preparation and smooth functioning of the management system and participation in training defensive,
- execution of plans and defensive programs,
- preparing the infrastructure for the functioning of the management system, in particular by selection of existing or construction of new buildings and adapting their exercise plans and equipment to enable their use in the event of an internal or external threats to national security and the war.

Preparations of a management system are implemented in peacetime and include projects to ensure performing management functions in time of peace, crisis by authorities, including projects resulting from international agreements which Poland is bound.

## **Management positions, organization and principles of operation**

In order to ensure the ability of implementing by the competent authorities and in its properties of strength, leadership tasks of national security preparing management positions, which include the main steering position and backup management positions. Selection of the work is dependent on the scale of the threat:

### **Key management positions and their structure**

Key management positions prepared according to the needs of the permanent premises of organs or backup jobs.

For the purposes of management positions used general purpose buildings (construction works) and building structures equipped with facilities and equipment whose operation is independent of the technical facilities for public use (special objects).

Key management positions prepared for:

- The Polish President,
- The Prime Minister,
- ministers, central government authorities and governors,
- heads of central offices that are not members of government administration,
- heads of combined services, inspections and guards acting under compulsion of the governor and the non-combined administration bodies, governors agreed by Ministers in according to the competence
- executive bodies of local government.

Key management positions for the President and the Prime Minister is prepared a position of management in construction works and special facilities.

Allocation of special facilities for the management positions of the Polish President, the Prime Minister, ministers and central government authorities is made on the basis of the decision of the Prime Minister.

The management position of the Polish President, Prime Minister, the ministers and central government authorities appointed by the Prime Minister form a Central Management Position of State Defense.

The Central Management Position of State Defence is the correct structure is created in the governance and decision-making adequate for the tasks of national defence.

Limits of the main area of management positions make up the Central Management of defense is your position, determined by the Prime Minister, on a proposal from the Minister of Interior, agreed with the Minister of National Defense.

Key management positions are preparing:

- in permanent residence:
  - the Minister of Interior for the Polish President and the Prime Minister
  - ministers, central government authorities, governors, heads of central offices that are not part of the central administration, heads of combined services, inspections and guards acting under compulsion of the governor and the non-combined administration, set by ministers and governors according to their responsibilities, as well as executive bodies of local authorities.
- in a backup workplace:
  - the Minister of Interior for the Polish President and the Prime Minister,
  - ministers, central government authorities, governors, heads of central offices who are not part of the central administration, for which the location is agreed with the Minister of Interior,
  - heads of combined services, inspections and guards operating under the governor,
  - non-combined administration bodies set by ministers and governors according to the competence,
  - executive bodies of local authorities which location is agreed with the proper governor.

If the authorities (with the exception of management positions in preparation for the Polish President and the Prime Minister) does not have a permanent management facilities suitable for backup workplace, submit an application to the relevant authorities the allocation of such objects in the benefits to the defense.

## **Backup management positions**

Backup management positions are preparing:

- the Minister of National Defense for: the Polish President, the Prime Minister and ministers and central government authorities, appointed by the Prime Minister,
- governors - its location is agreed with the minister of the Interior and the Minister of National Defense. Voivodes as a part of a backup management position provide workplaces to the province marshal or the government commissioner appointed under separate regulations, and other bodies necessary in the conduct of the defense of the region,
- ministers and central government bodies, other than the above mentioned, and the heads of central offices who are not part of the central administration but can - according to your needs – preparing backup management positions, which a location is agreed with the relevant governor.

Backup management positions for: the Polish President, the Prime Minister, minister, central government authorities designated by the Prime Minister, is made up in areas that in the first period of conducting the state Defense will be the least vulnerable to the effects of combat. The boundaries of these areas are determined by the Prime Minister, at the request of the Minister of National Defense agreed with the Minister of Interior.

## **Principles of operation management positions in the State Defense System**

According to § 5 of the Regulation of the Council of Ministers of 21 September 2004 on the defense readiness (Journal of Laws No. 219, item. 2218), the state defense readiness condition of the war-introduced to the tasks to enable the full development of the national defense system to repel military aggression, carried out a general mobilization and the introduction of martial law.

After the introduction of higher states of defense readiness state, i.e. the state of defense readiness in time of crisis or war, tasks predicted in the Polish Defense Plan (§ 6. 1 mentioned above the Regulation of the Council of Ministers of 21 September 2004). At that time as the first should be carried out tasks on behalf of: startup of national security, Polish Armed Forces and allied forces. These tasks can be performed implicitly.

About the transition of public authorities for specific management positions under Martial law the Polish President at the request of the Council of Ministers - in accordance with art. 10 of the Act of 29 August 2002 on the state of war and the competence of Commander-in-Chief of the Polish Armed Forces and its subordination to the constitutional principles of the Polish authorities (Journal of Laws No. 156, item 1301).

Moving ministers and central government authorities on backup management positions, appointed by the Prime Minister, as well as provincial governors is carried out based on the decision of the Prime Minister, in accordance with elaborated an operational plans.

Moving the backup workplaces is performed on the basis of the decision:

- minister, central government authorities, governors and heads of central offices, which are not part of the central administration, carried out on the basis of the decision of the proper body, in accordance with elaborated an operational plans, with prior notification to the head of the Chancellery of the Prime Minister and the Minister of Interior;

- heads of combined services, inspections and guards acting under compulsion of the governor and the non-combined administrations bodies, set by ministers and governors according to the competence of the executive bodies of the local authorities, carried out on the basis of the decision of the body, in accordance with elaborated an operational plans,

### **Mission of bodies preparing management positions**

Authorities prepare management positions are required to:

- preparation of regulations and work instruction in positions of management,
- inclusion in the operational intention connected with moving and functioning of management positions,
- preparation of objects designed for management positions, subdivided as part of the benefit for the defense, which include:
  - preparation of documentation related to the movement and ensure the functioning of the body at the management position,
  - maintenance of the technical infrastructure and the modernization by its members in peacetime,
  - establish principles and procedures for the circulation of information on the standby authority to undertake tasks and their implementation and specially organized, including classified ICT systems,
  - refitting with communication equipment to provide the opportunity of undisturbed work of body
  - refitting with filtering and ventilation systems, the source of electricity, thermal energy and intake stations, where the action is independent of the technical facilities for public use,

- refitting with technical devices and sanitation, office and council equipment for the purpose of work and leisure,
- a protection against the effects of recognition and destruction of the enemy, mainly by masking and construction and modernization of hide and shelters,
- host: nutrition and supply of articles of daily use, medical, transport and service vehicles and technical equipment, supply of fuel and supplies, covers counterintelligence, special operations points,
- organizing a notification and alert system about the threat from the air and contaminations and infections,
- preparation of measures to: develop and restore the communications system and maintain computer security, protection and Defense management positions, including before an identification and radioelectronic incapacitate, conducting rescue operations, moving to the backup workplace and backup management positions,
- training of personnel providing special maintenance management positions in readiness for their use,
- term benefits for the defense in the preparation of infrastructure,
- verification of an allocation construction works and monitoring of required maintenance by next users.

## **Financial preparations for management positions**

Financing tasks fulfilled as a part of preparation management positions belongs to authorities which will be functioning on these positions, with the exception of tasks related to the preparation:

- backup workplaces of main management positions the Polish President and the Prime Minister, financing tasks belong to the Minister of Interior,
- backup management position, organized for the Polish President, the Prime Minister and ministers and central government authorities, indicated by the Prime Minister, financing belong to the Minister of National Defense.

## **Specific tasks in the preparation of management system**

### **Minister of National Defense:**

- coordinating tasks, prepares drafts of tasks for government authorities and agree a location of New special facilities for management position, according to the requests made by concerned authorities
- in the area of backup management positions:
  - preparing a management position in the field agreed with the Polish President, the Prime Minister and other ministers and central government authorities, as indicated by the Prime Minister
  - supervises the masking projects related to the preparation of backup management positions,
  - provides direct protection and Defense of the region in consultation with officer, direct protection of certain people, safety and public order, fire order, conducting of rescue services and emergency evacuation warning and alarms, plan to organize a system of communication, including communications and special conditions for maintenance of special facilities and their maintenance in the event of an internal or external threats to national security and during the war.

## **The Minister of Interior Affairs**

– develops, in consultation with the Minister of National Defense, the concept of the preparation and maintenance of special facilities and prepare, in consultation with the Minister of National Defense, the plan to move on the backup management positions the Polish President, the Prime Minister and ministers and central government authorities, appointed by the Prime Minister

– **in the area of main management positions:**

- prepares for the Polish President and the Prime Minister management positions (to the extent agreed with the Head of the National Security Bureau and the Head of the Chancellery of the Prime Minister), prepares special objects, protects and defends their management positions and direct protection of certain people,
- plans and organizes the movement of the Polish President and the Prime Minister for backup workplaces and special ITC systems for the management system and ensure their functioning,
- provides - a maintenance of special objects for the Polish President, the Prime Minister, ministers and central government authorities in preparation for use, and their maintenance in the event of an internal or external threats to national security and the war,
- provides protection and security, public order and fire protection and the functioning of the warning and alert as well as conducting of rescue services emergency evacuation

## **The Minister competent for Communications (The Minister of Administration and Digitization)**

– prepares - in consultation with officers concept of organization communication system, including cooperation with communication systems allied states as well as technical and operational requirements for communications equipment used for management system, and standards of equipment management positions in communications equipment and supervises their implementation by the President Office of Telecommunications and Post

– provides a connection to the internal network communications management positions with the networks of telecommunications companies

– develops the concept of making and delivery of the works in the field of communications and looms contractors design documents and work in areas of management positions, and supervises their implementation.

## **The Minister of Health**

He prepares security plan for health care services for the Polish President, the Prime Minister, ministers and central government authorities and organization units, operating in their areas of primary and backup management positions.

## **The Minister competent for Construction (The Minister of Transport, Construction and Marine Economy)**

– prepares the conditions to be met by the newly built special facilities and other facilities adapted for the management positions, conditions of the exercise and acceptance of construction and erection and perform mechanical-technological start-ups, as well as programs for modernization and construction special objects,

– plans norms of balance dues material resources for function authorities on management positions, including the collection and maintenance of special reserve these resources;

## **The Head of Internal Security Agency**

Provides a counter-intelligence protection and radioelectronic recognition of areas and facilities positions the Polish President, the Prime Minister, ministers, central government authorities and governors as well as security systems and networks required for the manufacture, processing, storage and transmission of classified information.



# VII

## **The contemporary world in relation to terrorism**



Terrorism is one of the most dangerous threats for international security. It may take different forms. We distinguish religious, political, criminal, individual and collective terrorism. Terrorist activities are mainly collective in their character. It is difficult to launch a single terrorist attack because of the logistics of its preparation. Especially, at the turn of the 20<sup>th</sup> and the 21<sup>st</sup> century, terrorism became a main threat to the world's security. Terrorism, as a tool of activity, lets definite units or groups bring about some incidents, both in international and internal relations, in every geographical part of this World.

## The evolution of terrorism

„Terrorism” comes from a Greek word *treo*, meaning „to be afraid”, and also from a Latin word *terror* (fear, to threaten, to terrify).

Here are some definitions of terrorism:

„Terrorism, using, practicing terror for political reasons, especially an organized activity of extremist groups (hijacking airplanes, assassinating politicians, bomb attacks), conducted to press a society and authorities, to affect public opinion, to extort concessions of political decisions favourable to them”. (Sikorska – Michalak, Wojniłko, 1998, 423).

„ Terror, violence and cruelty or the threats to use them with people in order to intimidate them” (Bralczyk, 2005, 846).

„Terrorism” means the activities of single persons or groups trying to extort particular concessions on states' governments, by means of terrorist attacks” (Bralczyk, 2005, 846).

„Terrorism” – using violence to achieve political or economic goals in international relations. A form of intervention brought about by sheer force, by special military or police squads, or by terrorist organizations (Osmańczyk, 1974, 590).

John Paul II in the Message on the 35th World Peace Day 2002 characterized terrorism in the following way:

*„Terrorism is an unpredictable activity in its type. It is one of the most brutal forms of violence that shakes the international community today: it spreads hatred, death and a desire of revenge. Terrorism has developed into a sophisticated network of political dependencies. Places of common life are usually objects of terrorist attacks. Terrorism attacks from behind the corner. It acts with no respect to international rules and, in many cases, it is perceived as a new way of conducting war. Terrorism must be assertively condemned. It expresses a contempt for a human life. Terrorist acts strike deeply at human dignity and they insult the whole mankind. There exists therefore a right to defend oneself against terrorism.”* (John Paul II, 2002, 134).

Terrorism, as a weapon of political fight, developed dynamically in the 19th century. However, its insidious activities were noticed already in Antiquity. They have also been noted since the beginning of the modern era, however in different forms of its action. Plato, Seneca, Aristotle and other thinkers pondered about terrorism. Assassinating a tyrant-ruler whose authority was discordant with a divine law was legalized as a sacrifice nice to gods (Capana 2007, 25-27).

Terrorism, as every kind of activity consisting of the use of force or the threat of its use in relation to persons, governments, public buildings, to extort some activity or to waive it in order to achieve political goals. It has no its own identity, except for the inclinations to use violence in the name of achieving particular goals, not always political. It can compose into every matter and it can be used by every ideology, if they only decide to spread it through violence or the thread of its use.

Another important aspect of terrorism is its rich history. According to David C. Rapoport, four waves of terrorism can be identified. The first of them was the terrorism of Russian anarchists, described by them as „a propaganda of act”, which developed in the 19th century. The next wave of terrorism, the anti-colonial terrorism, was linked with the democratization of international relations and the striving of colonies to become independent from their

metropolis. The extreme leftist terrorism, described as a *new left terrorism*, was already the expression of social, not national strivings. The wave of terrorism that we encounter today is of a religious character. The fundamental aspiration of this generation of terrorist groups – as a final goal – is to create a global caliphate, the God's state on earth. It is to govern itself with the law based on religious rules, as a basis of a community life (Dietl, Hirschman, Tophoven, 2009, 16). Between the fall of the Berlin Wall and the 11<sup>th</sup> of September 2001, most of the international crises resulted from the weak states: Somalia, Haiti, Cambodia, Bosnia, Kosovo, Rwanda, Liberia, Sierra Leone, Congo and East Timor. The international community intervened in each of these conflicts, sometimes indirectly, often too late and in a limited scope. More than once it took over the burden of governing a weak state from the hands of local authorities (Fukujama 2005, 110). Donald Ramsfeld, the Secretary of Defense of the United States of America, in the government of the President George Bush Jr. noticed: „weakness provokes (...), weakness encourages rivals to act in a way that would never come to their mind in the opposite case.” (*Polska Zbrojna*, 21st of October 2001.)

The deepening process of falling of states, bad governance, corruption, abuses of power, weak state institutions, the lack of a state's sense of dignity – all of them and the ones not enumerated here – are a threat and they result in a state's crisis. In some cases it causes a fall of public institutions like in Somalia, Liberia or Afghanistan under the Taliban authority. The fall of a state may result in a terrorist activity as the only way to improve its national existence. Yet, such a thinking is sentenced to negation, in advance (Słomczyńska 2007, 250).

The attacks from the 11<sup>th</sup> of September gave a new dimension to this problem. The withered Afghan state was so weak that, in result, every organization, not having itself a character of a state, could take control over it. Therefore, the terrorist organization Al-Qaeda wanted to use this state for its sophisticated terroristic operations. These attacks made it clear to the world how big consequences can violence have, not only for the United States but also for the international community. Traditional rules of „frightening off” or „preventing” turned out to be totally ineffective. Therefore, it has been assumed that security reasons require some interference into the home affairs of states, including a change of their system. It seems to be the only way to stifle some potential threat in a germ. The problem of malfunction of such states as Somalia or Afghanistan is only one source of the problem resulting from the weakness of local authorities for the international order. The lack of democracy, pluralism or a significant political participation lie, among others, at the basis of a permanent crisis in the Middle East, Africa and the Southern and Eastern Asia. The United States used to be accused, on principle, for the increase of authoritarian tendencies, by assigning to them not well defined motives of supporting the regimes, e.g. in Saudi Arabia or Egypt. (Słomczyńska 2007, 250). Moreover the region is afflicted with economic stagnation. It has been omitted by the wave of economic reforms that embraced Latin America, Asia and other developing parts of the world in the 80's and the 90's. Over the last twenty years, the economic stagnation or even the recession have fallen on the period of population boom causing the unemployment of tens of thousands young people. Similarly, like in the other regions of the world, bad governments of these countries can mostly be blamed for their economic problems. It resulted in building a good ground for creating the informal groups (organizations) that were turning into the illegal formations of fight for their identity (Fukujama 2005, 111).

The contemporary form of terrorism is a dangerous but also an incredibly fascinating phenomenon, from the point of view of social, political and psychological sciences. It is a real research challenge – the area that can be examined only by means of the interdisciplinary approach, including such disciplines of science as: sociology, psychology, political sciences, international relations, economics, war arts, internal and international law, banking, anthropology or cultural sciences. There are a lot of researchers exploring the phenomenon of terrorism, but let me enumerate only some of them; Bruce Hoffman and Alex Schmidt. Alex Schmidt identified the phenomena linked with terrorism in the following way:

- Using violence, force or the threat to use them,
- The political motivation of offenders,
- Acting in order to arouse fear,
- Desire to cause psychological results and reactions,
- The distinction between the goal of an attack and a direct victim,
- Purposefulness and planning of activities,
- A fighting method,
- A conflict with the current rules of social behaviour,
- Extortions,
- Using media in order to gain publicity,
- Blind crime (accidental choice of victims),
- Using symbols,
- Unpredictability of offenders' activities,
- A secret character of the organization using tricky activity methods (Capana, 2007, 11-12).

In the literature of this field terrorism is not defined unequivocally because of strong relations of its activity with politics. It is difficult to indicate the border between the military operations defined as terroristic and, on the other hand, the justified ones. In the past and nowadays among the objects that have been under attack there have been public administration offices, diplomatic representatives, big population clusters, schools, railway stations, airports, underground stations, passenger trains and many other objects that are now difficult to count and to catalogue. It is reprehensible that among the victims of terrorist attacks there are defenseless children and innocent people. The terrorist activity is mainly directed to those who through their political and state activity strongly oppose it. Here are several examples of the attacks on heads of states: in 1865 the assassination of the 16th President of the United States, in 1914 the attack in Sarajevo in which the Archduke Franz Ferdinand, heir to the Austro-Hungarian throne was assassinated. It should be added that this incident was a direct cause of the outbreak of World War I. In 1922 the President of the Republic of Poland, Gabriel Narutowicz, was assassinated in Warsaw. In 1962 in Dallas, the 35rd President of the United States John Fitzgerald Kennedy was killed. Another successful assassination was organized by ETA in 1973 and it resulted in the death of Spain's Prime Minister Luis Carrero Blanco. In 1978 the Italian Prime Minister, Aldo Moro, was kidnapped by the Red Brigades and assassinated after 55 days. In 1981 two terrorist attacks on the important personages of this world took place: on the 13<sup>th</sup> of May a Turk Ali Agca attempted unsuccessfully to assassinate John Paul II on St. Peter's Square in Rome and in October of the same year, the President of Egypt, Anwar Sadat, was killed by the Islamic Jihad. In 1984 the Prime Minister of India, Indira Gandhi, was assassinated. In 1986 the Swedish Prime Minister, Olaf Palme, dies assassinated in Stockholm. In 1991 the Prime Minister of India, Rajiv Gandhi, was killed in the assassination attack. In 2003 the Serbian Prime Minister, Zoran Đinđić, was shot. In 2007 the Prime Minister of Pakistan, Benazir Butto, was assassinated. We should mention many unsuccessful attacks on presidents, prime ministers and other important personages on our globe.

## **The chosen spectacular terroristic attacks**

### **1905**

On the 15th of August, on the „Bloody Wednesday”, the Conspiratorial and Paramilitary Organization, a faction of the Polish Socialist Party (PPS), launched around 100 attacks only in Warsaw (Białek, 2005), 51).

## **1906**

In April, the Polish Socialist Party, headed by Aleksander Prystor, launched the attack on the „Pawiak” prison, which resulted in setting free ten political prisoners (Tomczak, 2010, 39).

## **1907 – 1911**

The Polish Socialist Party – Revolutionary Faction (PPS – Frakcja Rewolucyjna), under the leadership of Józef Piłsudski, launched over 1200 attacks of a different type, on the class and national conflict basis. (Tomczak, 2010 , 51).

## **1908**

The Polish Socialist Party – Revolutionary Faction (PPS – Frakcja Rewolucyjna) attacked a mail train near Bezdany (Tomczak, 2010 , 39).

## **1914**

On the 28th of June, the assassination of Archduke Ferdinand, heir to the Austro-Hungarian throne, took place.

## **1923**

16th October – the attack on “Citadel” in Warsaw.

## **1925**

16th April – the attack in the Orthodox Church „Sweta Nedelja” in Sofia.

## **1931**

On the 21st of February, the rebels from Peru made the first airplane hijack in history.

## **1969**

13th February – a bomb exploded in front of the building of the Stock Exchange in Montreal.  
12th of December – the attack on Piazza Fontana in Milan.

## **1970**

8th of May – the attack of P.L.O. fighters on a school bus c. Avivim.

## **1972**

30th of May – the attack of the Japanese Red Army on the Lod Airport in Israel.  
5<sup>th</sup> of September – during the Olympic Games in Munich, the “Black September” organization kidnapped the Israeli sportsmen.

## **1973**

1st March – the „Black September” organization organized the attack on the Saudi Arabia Embassy in Khartoum.

## **1974**

17th May – the Forces of Ulster launched bomb attacks in Dublin and in Monaghan.

## **1978**

13th February – the attack on the Hilton hotel in Sydney.

## **1988**

21st December – the air-crash over Lockerbie, the explosion of the bomb planted by agents of the Libyan Intelligence on the board of a plane of Pan-Am American Airlines, Boeing – 747.

## **1992**

7th March – a bomb attack on the Embassy of Israel in Buenos Aires.

## **1993**

26th February – the attack of Egyptian, Sudan and Jordan terrorists, headed by Sheikh Omar Abdal Roman with „the 5th battalion of the liberation army” on the World Trade Center .

## **1995**

20th March – the Aum sect „The Highest Truth” sprays Sarin in the Tokyo subway.

19th April – a bomb attack on a federal building in Oklahoma City.

14th June – the attack on Budionnovsk in Russia.

25th July – a bomb attack in the Paris underground.

## **1996**

31st January – the explosion in the Central Bank in Colombo (Sri Lanka).

## **1998**

6th April – a bomb attack on the Russian Embassy in Riga.

7th August – the attacks on the US Embassy in Tanzania and Kenya.

## **1999**

19th March – a bomb explosion in Wlady Caucasus (Russia).

4th September – the explosion of a booby-trap car in Dagestan (Russia).

9th and 13th September – bombings of the blocks of flats in Moscow.

## **2000**

8th August – the explosion in the underground passage in Moscow.

## **2001**

11th September – the attack on the World Trade Center and the Pentagon (U.S.A.).

## **2002**

12th October – the attack of the Islamic terrorists in the health resort of Kuta on the Bali Island (Indonesia).

23th -26th October – terrorist attacks on the Dubrovka Theatre Centre in Moscow.

27th December – a bomb attack launched by Chechen guerrillas on the headquarters of the pro-Russian government of Chechnya in Grozny.

## **2003**

16th May – the attacks in Casablanca.

15th November – the attack on two synagogues in Istanbul (Turkey).

## **2004**

6th February – the explosion in the Moscow underground.

11th March – the attack in Madrid.

24th July – a bomb explosion near the U.S. Embassy in Tashkent (Uzbekistan).

31st August – a bomb explosion near the underground station in Moscow.

1st -3rd September – the armed attack on a school in Beslan (North Ossetia).

## **2005**

7th and 21st July – attacks in London.

## **2006**

16th October – a terrorist attack in Sri Lanka.

30th December – the explosion of a bomb planted by ETA at the Barajas Airport near Madrid.

31st December – bombings in Bangkok.

## **2007**

19th February – the explosion in the “Przyjaźń” (Friendship) train running between India and Pakistan.

30th June – the attack on the Glasgow Airport.

## **2008**

On the 21st of June, as a result of a bomb explosion, a Polish soldier, second lieutenant Robert Marczewski, died in Afghanistan. Four other soldiers were wounded.

4th July – the explosion at the concert organized on the occasion of the Independence Day of Belarus in Minsk.

14th and 21st July – the attack on busses in the Chinese province of Yunnan.

17th September – the attack on the U.S. Embassy in San, a capital of Kazakhstan.

17th September – a bomb attack in North Ossetia in the city of Wlady Caucasus.

30th October – the attack in the area of the University of Navarra in Pamplona.

26th November – a series of terrorist attacks in Bombay.

## **2009**

2nd January – the attack of Tamil Tigers on the quarters of Air Forces of Sri Lanka.

17th January – the attack on the German Embassy in Kabul.

27th January – a terroristic attack on the Israeli convoy, organized by Jihad and the Taida Brigades in Kissufim (Israel).

7th February – the attack on Peru Attorney General in Lima.

9th February – bombings in Madrid – ETA.

3rd March – the attack on the bus carrying the Sri Lanka national cricket team, in Lahore.

10th March – the attack in Akuressa in Ceylon, where among others one of the ministers was killed.

5th April – the attack on the mosque in Chakwal (Pakistan).

24th April – a suicide attack next to the tomb of Shiite Imam Mousa al-Khadum.

15th May – the attack on the militia patrol in Grozny.

16th May – the explosion of a booby-trap car in Peshawar (Pakistan).

27th May – the attack of Kurdish rebels on Turkish soldiers in Hakkari (Turkey).

On the 2th of June, a bomb explosion damaged rails on the line Tbilisi-Zugdidi in Ingiri (Georgia).

5th June – the attack in the mosque, during prayers, in Dir district in Haya Gai (Pakistan).

3rd July – a bomb explosion in the Internal Revenue Service in Athens.

17th July – a successful assassination attempt of Ingushetia’s sports minister in Nazran.

30th July – the explosion of a booby-trap car, by ETA, in Majorca.

9th August – three bomb explosions, by ETA, in Majorca.

17th August – the explosion of a booby-trap car in Nazran (Ingushetia).

25th August – the attack on a militia patrol in Mesker Yurt (Chechnya).

1st September – the explosion of a booby-trap van in Thessaloniki and Athens.

26th September – the explosion of a booby-trap car in a crowded street in Peshawar (Pakistan).

9th October – the explosion of a booby-trap car near the Parliament of Pakistan’s Northwest Frontier Province.

20th October – a detonation by a suicide-bomber next to the local University in Islamabad.

8th November – the assassination of the Mayor of the city of Abdula Malika in Adazai (Pakistan).  
10th November – the explosion of a booby-trap car on the marketplace in Charsadda (Pakistan).  
3rd December – the attack on the Shamboo hotel in Mogadishu. In the terrorist attack 25 people were killed, including the minister of education Ahmed Abdulahi Waayeel, the minister of health Qamar Aden Ali and the minister of higher education Ibrahim Hassan Addow. 60 people were wounded, the minister of sport Saleban Olad Roble among them.  
18th December – a bomb explosion next to a school in Phapun (Burma). Burma's junta ascribed the attack to the separatists from Karen.  
24th December – the explosion of a booby-trap car in Kandahar.  
26th December – the blast of three explosives placed under the car of the alleged member of a radical Palestinian movement, Hamas.  
28th December – a bomb explosion in Athens caused a partial damage of buildings and cars.

## **2010**

1st January – the attack during a volleyball match in Lakki Marwat (Pakistan).  
6th January – the attack on the militia station in Dagestan.  
15th February – the attack of Naxalites on the camp of Eastern Frontier Rifles, a formation being a part of the Bengal police.  
29th March – the attack on the underground stations of Łubianka and Park Kultury (The Culture Park) in Moscow.  
17th April – the attack on a refugees camp in Kohat (Pakistan).  
1st May – the attacks in a mosque in Mogadishu (Somalia).  
1st May – the attack during a contest in the hippodrome in Nalchik, (Russia).  
28th May – the attack on a passenger train in West Bengal (India),  
11th July – the attack in Kampala, a capital of Uganda.  
12th August – the attack on Juan Manuela, the President of Columbia, in Bogota.  
3rd September – the attack on the participants of a religious pilgrimage in Qwetta (Pakistan).  
19th October – the attack of Chechen terrorists on the Parliament in Grozny.  
11th December – two attacks in Stockholm: explosion of a booby-trap car and a detonation of the explosives of a suicide-bomber.

## **2011**

1st January – the attack on a marketplace in Abuja, a capital of Nigeria.  
1st January – the attack on a Coptic church in Alexandria.  
24th January – the attack on the Domodedovo Airport in Moscow.  
11th April – the attack in the underground in Minsk, a capital of Belarus.  
28th April – the attack in Marrakech, Morocco.  
3rd May – a Naxalite attack in Lohardaga, India.  
27th May – the attack on UN soldiers in Sidon, Lebanon.  
29th May – the attack on military barracks in Bauchi, Nigeria.  
10th June – a successful attack on the minister of home affairs in Mogadishu, a capital of Somalia.  
16th June – the attack on a parking next to the police headquarters in Abuja, a capital of Nigeria.  
24th June – the attack in Aden, Yemen.  
22th July – the attack on the seat of Norwegian government in Oslo.  
22th July – the attack on Utoya Island, Norway. Both attacks were launched by one assailant, Andres Breivik, a citizen of Norway.  
26th August – the attack on the UN headquarters in Abuja, a capital of Nigeria.  
Moreover, till September 2011, there were a lot of attacks in:

- Afghanistan: 18 in which more than 320 people were killed,
- Iraq: 16 in which more than 300 people were killed,
- Pakistan: 21 in which more than 500 people were killed

## 2012

6th January – attack in Damascus, Syria, 25 killed  
 20th January – attack against Christians in Kano, Nigeria, 211 killed  
 10 attack in January in Iraq, more than 220 people were killed  
 10th February – attack in Aleppo, Syria, 28 killed  
 23 February – a series of attack in Iraq in Bagdad, Tikrit, Bakuba, Kirkuk, Al-Hilla, Dudzail, 60 people killed.  
 20th March – a series of attack in Iraq in Kirkuk, Karbala, Ar-Ramadi, Bagdad, 45 killed  
 10th May - attack in Damascus, Syria, 55 killed  
 21th May – attack in Sama, Yemen, 96 killed  
 13 th June - a series of attack in Iraq, 93 killed  
 18th July – a suicide attack on a bus with tourists from Israel in Burgas, Bulgaria, 7 people killed  
 23rd July, 16th August, 9th September - car bombings, suicide bombings, shootings 352 killed across Iraq  
 3rd October – attack in Aleppo, Syria, 48 killed  
 28th November - car bombings 54 killed in Jaramana, Syria  
 30th December - suicide bombing, massacre 41 killed in Pakistan near Quetta and Peshawar  
 Many attacks in Afganistan, Pakistan, Somalia, Colombia, Kenya, Russia, Egypt, Libya, Turkey, Philippines

## 2013

10th January -suicide bombings 126 killed in Quetta, Pakistan  
 15th January - rocket attacks 82 killed in Aleppo, Syria  
 16-19th January - shooting, hostage crisis, 69 killed in In Aménas, Algeria  
 11th February Clashes, 68 killed in Lahad Datu, Sabah, Malaysia  
 15th April - bombings 5 killed 264 children injured in Boston, United States  
 23-26th April - bombings, shootings more than 331 killed across Iraq  
 Many attacks in Iraq Afganistan, Pakistan, Mali, Turkey, Philippines, Somalia, Nigeria

It should be mentioned that the list does not include a never ending number of attacks in Iraq and Afghanistan, and also in many other places in the world, which have not been much reported and the public opinion has purposefully not been informed. According to the statistical approach to the problem of terrorism, since 1905 till 2007 there were 1460 terrorist attacks launched in the world. Moreover, in 2008, according to different sources, there were 73 dangerous terrorist attacks in Russia, India, Pakistan, Iraq, France, Syria, Gaza, Sri Lanka, Israel, East Timor, Jerusalem, Somalia, and North Ossetia, in which more than 1330 people were killed and more than 6000 were wounded. According to the *Country Reports on Terrorism* prepared by the American State Department, in 2009 there were more than 11000 attacks in 83 countries, mainly: Iraq, Pakistan, Afghanistan, Spain, Ingushetia, Somalia, Greece, Russia, Israel, Sri Lanka, India, in which around 16000 people were killed and around 49000 were wounded. The year 2011 end swith a number of no more than 150 attacks. As of the 18th of December 2010 there were 143 attacks, in which 14450 people were killed and almost 42500 people were wounded. The terrorist attacks took place in Dagestan, Iraq, Afghanistan, Russia, Chechnya, Columbia, Belarus, Nigeria, Ethiopia, Kenya, India, Pakistan, Turkey, Somalia, Sweden and West Bengal (Wikipedia, Terroryzm).

## Sources of terrorism

*The political source* – a variety of political views, engaging in achieving particular goals. It is more difficult for weaker individuals to achieve success or to mark their presence. It gives rise to a desire to overcome this impotence by using radical methods, not fitting the generally accepted forms of political fight. Thus, terrorism appears to be the only way to reach the goal (Białek, 2005, 62).

*The economical source* – it refers to the groups deriving their ideology from the sense of want. A desire to possess is a very strong motive power. If the environment does not provide people with the opportunity to possess certain goods, it gives rise to frustration that becomes a fundament for individuals or groups to undertake activities aiming at improving their economic situation and to gain the desired goods by means of extortion realized through terroristic methods (Białek, 2005, 63).

*The social source* – is the example of some concurrence of events, which results in a desire of fast and radical changes. Most often it results from the lack of satisfaction from the living conditions. It is difficult to determine a course of events leading to radical actions. Yet, sometimes there arises the so called “violence spirit” that directly leads to the use of terrorist activities (Białek, 2005, 63).

*The psychological source* – practically unpredictable, being the example of a reaction of an individual, most often (there are exceptions however), and their mental distortions. If the previous sources can, even if only theoretically, be limited or eliminated, it is impossible in this case. Functioning of an ill mind lies beyond the sphere of possible control in a way it would enable to prevent the use of terroristic methods by a frustrated or a mad man (Białek, 2005, 63).

*The religious source* – with a strong impact among religious confessors. Due to religious characteristics it is especially common among the Muslims, because, as Robins and Post notice: „in the world of Islam, religion controls all the spheres of life, politics, society and culture. Shariat (Islamic law), defines every aspect of life. A will to propagate one’s own religion and to spread it among wider and wider groups of people can be so strong that it can lead to deviations in the form of terrorism. A word „deviation” is used purposefully here, because the Islamic terrorist groups refer very much to Islam, whereas Islam is a religion that forbids killing. Manipulating the religion is an easy way to gather a large group of people around one’s views. Religious motivation is a base of the most dangerous phenomenon inside terrorism, namely a religious fanaticism (Białek, 2005, 64).

*The civilization and cultural source* – is the effect of colliding of different cultures. It is characterized with a conflict of the different, often the contradictory (e.g. the Christians – the Muslims) and sometimes only the different in some part (the Catholics – the Orthodox). The civilization and cultural source is the example of different moral standards and customs. The lack of tolerance for divergence, in certain circumstances, becomes a base for a conflict, most frequently among communities. A cultural base is what conditions the rise of a group which is terroristic in character. It may point to the choice of a method of fighting each other which often turns into terrorism. The kind of a cultural base is important not only in the „attacking” but also in the „attacked” community, because it is the object of exerting influence (Białek, 2005, 63).

## Streams and characteristics of terrorism

### Streams

*The national independence stream* – it uses terroristic acts to make a community living in a certain region gain independence and sovereignty (IRA, ETA, PFLP).

*The religious stream* – based on a particular religion as an interpretation of its activities. It is characterized by fanaticism and religious fundamentalism. The organizations using

terroristic methods and based on a religion are sometimes deprived of the support of all the believers, because of a specific interpretation of religious rules. However, sometimes this is radicalism that attracts most the co-believers ( Hamas, Hezbollah, Ku-Klux-Klan).

*The subversive stream* – linked very much to revolutionary or pseudo-revolutionary political views of the groups employing terroristic methods to achieve their goals. At the head of this stream there are anarchist, extreme left, neo-Fascist and extreme right groups, but also the representatives of „the greens”, using intimidating and violence methods (Red Brigades, Red Army Faction).

*The repressive stream* – is the example of using terror and terroristic methods by a state to repress their citizens and other states or organizations. This type of motivation is frequently based on the abovementioned streams (Bialek, 2005, 52-53).

## Characteristics

*The activity focused on arousing chaos* – terrorists consider themselves to be a power able to control chaos and to take over the power to achieve their aims.

*The activity aiming at loosing or even destroying community ties* – causing a situation in which terrorists would like to bring in standards of behaviour and community ties preferred by them.

*The activity aiming at causing distortions in decision-making processes of the attacked (mainly the governing groups of a country)* – weakening of a state leads not only to difficulties in a decision-making processes, but also, as a consequence, to the paralysis of a state’s apparatus that lets for a more free activity of terrorists, gives smaller possibilities of fighting them and reacting to their acts and, therefore, for the gradual achieving of domination over them.

*The activity aiming at authoritarian or even totalitarian solutions* – terrorists prefer a strong authority that can provide them with power they strive for because, by means of this power, they can realize their plans.

*The activity stirring up hostility towards „the aliens”* – „an alien” may have various meanings but in the case of terrorists it implies adversaries, enemies. By stirring up the hostility of a community towards „the aliens” they attempt to win people over to their (the terrorists’) side.

*The activity attempting to create psychological and social conditions leading to fundamental transformations of the political and legal order binding in the current reality* – presenting the current order as evil, in a successful way, creates a community’s desire to change it. The atmosphere created as a result of such an activity is a good ground for the acts leading to fundamental changes and this is what terrorists want to use to realize their plans (Bialek, 2005, 55-56).

Differences between the older and the present forms of terrorism consist not only in the methods used but also in the fact that today the terroristic activities are based on a more developed ideological ground.

The terrorist acts themselves may also be of a different character. Because of the target of attacks we distinguish two kinds of them:

1. Direct terrorism – in which the objects which are to be affected by the attacks are their targets.

2. Indirect terrorism – in which other objects, not being the target of the pressure, are the target of the attacks and the attack of which may affect the target object (Bialek, 2005, 53).

Contemporary terroristic acts show terrorists’ professionalism. It can be summed up in the following way:

- their activity is based mainly on the fight with the use of different methods;
- they possess indispensable qualifications (a training in the art of war, strategy, tactics, fighting techniques, logistics, conspiracy, the theory of propaganda);
- they have stable sources of financing their activity;
- they are characterized by fanaticism and extremism;
- a terrorist is a professional.

## Terrorist groups of ethnic and national character

*The Palestine Liberation Organization (P.L.O.)*. The process of its creation dates back to 1964. It was formed from the two organizations: The Popular Front for the Liberation of Palestine (PFLP) and the Popular Democratic Front for the Liberation of Palestine (PDFLP) with Yasser Arafat as its head, with the idea of creating a secular Palestinian state. In December 1971 The United Nations acknowledged the fight of the Palestinians as a liberation fight. They also acknowledged the right of the Palestinian nation to self-determination, after the speech of Yasser Arafat during the United Nations plenary session (Białek, 2005, 39-60).

*The Kurdistan Workers' Party (KWP)* gathering the Kurds living in Iraq, Iran, Turkey and Syria, was founded in November 1978. The greatest desire of KWP has always been the creation of a Kurdish state. In spite of many political steps and terroristic acts the Kurdish state has not been created.

*Basque Homeland and Liberty (ETA)* was created in July 1959 to liberate the Basques from the Spanish jurisdiction and to create the Basque state. Till now, with a number of terroristic attacks, they have not succeeded in creating their own state.

*The Irish Republican Army (IRA)* was created in 1916 to fight for independence and to finish the British occupation of the Northern Ireland to re-join it with the Irish Republic. IRA wants „to wash the British out of Ireland on a wave of blood”.

*The Liberation Tigers of Tamil Eelam (LTTE)* – Tamil Tigers is the organization founded in 1976 in order to create a Tamil state, unsuccessfully for the time being.

*The Armenian Secret Army for the Liberation of Armenia (ASALA)* was founded in 1975 as an over-national ethnic terroristic organization with the intension to create an Armenian state on the area that historically belonged to the contemporary Western Turkey (Białek, 2005, 61-68).

*The Secret Army Organization (OAS)* – the extremist right organization that was opposed to the Algerian independence. It was founded in 1961 under the leadership of general Raoul Salan. After Algeria's regaining independence it moved its terroristic activity to the territory of France, organizing, among others, the unsuccessful attempt to assassinate the President of France, general de Gaulle.

*Death Squadron* is a paramilitary group, consisting of the former, or being still in office, agents of special forces and the criminals dealing with killing of people on the request of a government or public institutions. Death squadrons have spread widely in Latin America and they have been used to fight a political opposition, including guerrillas and terrorists. The squads called Grupos Antiterroristas de Liberación that act on the request of Spanish authorities to fight ETA, can be considered as death squadrons. Nowadays, the groups of such a character and in a slightly changed form act in Columbia, Brazil, Salvador, Guatemala, Russia, Belarus, Haiti and many other countries of Africa and Asia (Wikipedia, Szwadron śmierci).

*Contras* – the anti-government and anti-communist guerrilla fighting in Nicaragua against the reforms introduced by the Sandinists and their allies. Supported illegally by the U.S.A. (in 1985 Congress forbid the Reagan's Administration to support them), they had their bases in Honduras and Costa Rica. The name „Contras” is the abbreviation of a Spanish word *contrarevolucionario* (Wikipedia, Contras).

## Social revolutionary (left) terrorist groups

*The Red Army Faction (RAF)* – active in Germany on the basis of the examples of Latin American terrorist and guerrilla organizations, e.g. Tupamaros from Uruguay. Among its founders there were Ulrike Meinhof, Andreas Baader, Gudrun Ennslin and Horst Mahler.

In 1998 RAF acknowledged that its fight had been a failure and dissolved itself.

*2 June Movement*, beside RAF, the greatest terrorist organization in BRD. It started its activity in 1970 and terminated it by self-dissolution in spring 1980. The activists of this organization moved to RAF and to the Berlin RC's.

The *Revolutionary Cells, Rote Zora and Anti-imperialist Cells in Germany* founded in the 70's were not well organized and with no transparent leadership. They were called „the after-hours terrorists”. The group organized almost 200 attacks, mainly on public institutions, private flats and offices of people from political cycles (Białek, 2005, 71-80).

*The Red Brigades* – the extremist left terroristic group, created at the turn of the 70's and the 80's. It was founded by Renato Circia with the aim of eliminating politicians, journalists, officers, policemen and attorneys. They attacked also banks and their activity was directed against the Italian state. In 1982 they were beaten by the government forces.

*Direct Action* – founded in 1979 in France by Jean – Marc Roulian and Natali Menigon. Along with the German RAF and the Italian Red Brigades they created a branch of the „anti-imperialistic front” in Europe. On the 21st of February the activists of the organization were caught. Thus, the lot of this organization was decided.

*November 17 Terrorist Organization* was founded in Greece on the 23rd of December 1975 and it finished its activity on the 5<sup>th</sup> of September 2002 when its leader Dimitris Koufondinas surrendered to the police. It was a small organization with the Marxist's and Lenin's values. The date of the 17<sup>th</sup> of November is linked with the students' riots on the Athens Technical University violently stifled by the military junta. Among the objects of the attacks there were military bases and transport infrastructure, representatives of diplomatic services, offices of foreign institutions and companies and private ship owners. The organization launched over 165 actions ridiculing the adversaries.

*The First of October Anti-Fascist Resistance Groups* – they were formed in Spain in 1975 as the armed arm of the Communist Party of Spain. They mainly attacked banks, used different kinds of extortions from rich companies and citizens and attacked policemen and military men.

*Revolutionary Left (Dev Sol)* in Turkey – since 1996 they cooperated closely with (PKK) the Kurdistan Workers' Party attacking the objects of foreign armies, mainly of NATO and the UN and Turkish officers. It is one of 60 active Marxist's and Lenin's groups operating in the world (Białek, 2005, 81-88).

*Shining Path* (spanish *Sendero Luminoso*) – the Maoist terrorist organization in Peru, calling itself a Communist Party of Peru (*El Partido Comunista del Perú*).

Its aim is to replace the Peruvian bourgeois institutions with the communist and revolutionary peasants' authority. The ideology and tactics of the Shining Path was adopted by other Marxist's guerrilla groups, especially the Maoist Communist Party of Nepal. In 1992, after capturing its leader, Abimael Guzman, the organization lost its previous vigour (Wikipedia, Świetlisty szlak).

*The Japanese Red Army* in Japan – through its activity it tried to overthrow the monarchy and to introduce a communist system. With no view to succeed they focused on supporting the Palestinians and Palestine. In their terroristic activities they used to join with left groups, including the enigmatical organization Anti – Imperialist International Brigade (AIIB). The organization has acted probably on behalf of Libya (Białek, 2005, 88-89).

We cannot forget about the terrorist organizations linked transparently with religious movements, most of all, with Islamic fundamentalism. Among them there is Al-Qaeda, whose activity is directed against the West, mainly the U.S.A. and Israel. The similar anti-West plans are characteristic of Lebanon's Hezbollah, Palestinian Hamas, Islamic Jihad and many other organizations difficult to identify. The extremist fundamentalism does not hesitate to act in an extreme brutal way to attract publicity and to arouse fear. According to the terrorists, these activities are to weaken social security, which in turn weakens the trust in state's organs as a guard of both internal and external security. Considering the

abovementioned issues resulting from a terroristic activity, it should be remembered that it is closely linked to the environment, in which it functions, and to its different conflicts present in a particular environment.

## **The European Security Strategy**

Neither the world nor Europe are free from threats. The European Union had noticed them and, therefore, it elaborated the *European Security and Defense Policy* (ESDP) and published it on the 12th of December 2003 under the title: „A Secure Europe in a Better World”. It contains definitions of threats for Europe’s security. Even though the aggression on a large scale against one of the Member States is very unlikely, Europe faces new threats. Nevertheless, it should be added that „Europe has never been so prosperous, so secure nor so free as today, because there came a time of peace and stability, unprecedented in Europe’s history” (Gryz, 2008, 136).

The strategy contains the analysis of main threats for the European security, starting from the most important one, namely, terrorism. It is the most serious and the most dangerous threat, because it endangers life and constitutes an increasing strategic threat for a whole Europe and the world. In greater part terrorist movements have almost unlimited sources of financing and the excellent communication with the use of electronic networks. They use assistance leading to mass victims. The last wave of a global terrorism is the essence. If it comes to its scope, it is linked with the aggressive religious extremism. Terrorist activities invoke social and political crises in their surroundings. They also cause the alienation of young people living in the international community. This phenomenon is also a part of European communities. It should be underlined that Europe is both a base and a target for terrorism. The European countries have already been attacked and a logistic base for Al-Qaeda cells have been discovered in the United Kingdom, Italy, Germany, Spain and Belgium (Słomczyńska, 2007, 249). Counteracting terrorism cannot be the act of a temporary character. It should be based on building effective mechanisms and systems of resisting it, because no contemporary state will be able to be sure that there appears a new group, faction or organization that will assume that terroristic activities can be the best and the most effective tool to achieve a goal. Terrorism in its present form is a globalized phenomenon and so globalized should be the fight against it. Resisting terrorism remains an important aim, respected in both the internal and the external policy of many countries. It is also being widely considered by international organizations.

Terrorism constitutes an increasing strategic threat not only for the whole Europe, but also for the whole world. Terrorist movements and their global scope affect indirectly or directly the regional conflicts, both the distant ones (Kashmir, the Great Lakes Region, the Korean Peninsula) and the closer ones, most of all in the Middle East. These conflicts destabilize functioning of the states and their communities and can lead to extremism and to their fall (Gryz, 2008, 138 – 139). In this point, a question should be put, what makes terrorism seem the unlimited source of problems to be solved, both on the country and on the international level. It is worth adding that the European states have built complicated systems of resisting this phenomenon. They employ forces and means that are the elements of these systems and they encompass both services, institutions and legal mechanisms that are an integral part of political, social and security systems of these states. On account of the nature of the threat, for a great majority of countries, fighting it remains the area that is associated with their own province. It complicates even more the establishing of international mechanisms of cooperation in this field (Białek, 2005, 15). Creating the security strategy of the European Union confirms that the contemporary world offers both bright perspectives and a very dangerous future. Which option will materialize depends partially on ourselves. Europe must think globally and act locally. Fighting threats must include the fact that in the era of

globalization the territorially distant threats may appear as dangerous as those that occur in a neighbourhood. All kinds of threats concern Europe in the same way. The terrorists' and criminals' activities may embrace the whole world (Gryz, 2008, 139 – 141). Challenges related to providing security require confrontation with adversary's forces, analysing their motivation, tactics and strategy. According to the evidence given by the international experts from government agencies and security services the Islamic terrorism is today the greatest threat for the community of the whole world. The endangered countries should learn more about the enemy, analyse their way of thinking and study their philosophy to be able to defend effectively. The armament and the increase of the number of police or army is not enough. There is a need for a reflection concerning the solving of the problems in the regions where the conflicts being a reason of violence have existed for years. They may be used as a fertile ground to the continuous new eruptions of terror.

The Western world cannot retreat from a dialogue with Muslim communes and citizens of Islamic countries, which gradually becomes an empty form. It must continue an intensive exchange of thoughts with Islam. Only a better understanding of this religion will unveil the wickedness of its pathological use by the Islamists who turn it into a political ideology and use it for their own aims (Białek, 2005, 316).

## **A fight with terrorism**

*Fight* – means every activity, at least between two objects (with the assumption that a team can also be an object), where at least one of the objects disturbs the other (Kotarbiński, 1982, 221).

*Fight* – means also all the activities, between at least two objects, in which one of the objects acts against the other. Accepting forms, ways and means to conduct a fight as a starting point (Balcerowicz, 2002, 152).

Approaching the idea of the fight with terrorism in an analytical way, the following observation should be noticed. Wrestling with terrorism is a certain form of a fight, because there is a possibility to use many more options than in an open war. The forms of waging war with terrorism, as used by the United States on the territory of Iraq and Afghanistan should not be excluded. Restraining terrorists and fighting with them is not a single event. It is a multistage process with a different intensification, which consists in prophylaxis, prevention, reaction and pursuing. *Prophylaxis* is an analytical activity that lets for taking steps prepared earlier that give a possibility to eliminate terrorism where it originates. If these activities are effective they will prevent the increase of frustration that results in aggression. Therefore, it will not be necessary to introduce next steps of fight with terrorism. Proper prophylaxis enhances the level of readiness to effectively influence the opponent.

*Prevention* is the activity directed to a particular event that has already occurred and preventing terrorist acts in this particular case. It means undertaking the activities stopping or liquidating the identified threat. It also functions as a particular demonstration of power and a readiness for confrontation. It happens that a sole demonstration is sufficient as a preventive activity.

*Reaction* is a stage of a direct response to the occurred terrorist act. It is a clash with terroristic forces, in which a use of guns is possible. In result, it leads to a physical phasing out of terrorists. The reaction can also be an element of other forms of fight, e.g. fighting with the use of propaganda. It may be expressed by an instant response to a television announcement of terrorists with one's own announcement.

*Pursuing* is a stage of administering justice in the sense of law. It is also a way of preventing other terrorist acts as tangential to prevention. The aim of pursuing is capturing of all the guilty of the act – a terroristic act in this case – who are responsible for the particular act of violence (Białek, 2005, 168-169).

At the beginning of the 21st century the fight with terrorism gained a status of a global and a necessary fight, because terrorism is a phenomenon with a global range that has to be opposed effectively. The Western world cannot retreat from a dialogue with Muslim communes and citizens of Islamic countries, that is gradually becoming an empty form. It must lead an intensive exchange of thoughts with Islam. Only a better understanding of this religion will unveil the wickedness of its pathological use by the Islamists who turn it into a political ideology and use it for their own aims (Białek, 2005, 316). The fight with terrorism should also engage all the media that can also be a platform of agreement. In no case may they divide, because their role is subordinate to the states and the nations. This is the reason why common operations, both European and on a worldwide scale, are necessary, because tackling terrorism, as the experts from Pentagon say, is similar to the race with no finish.



# **VIII**

## **Air terrorism**



Aeronautics was, is and will remain one of the most attractive objects of terrorist attacks. We already used to constant threat of the existence of the safety of aircraft Civil Air Transport. However anyone did not believe or did not take into account that it may occur as attacks on 11<sup>th</sup> September 2001. Currently aircraft terrorism effect has gained special meaning, permanently coming up acts of violence constantly remind everyone about the great dangers of traveling by plane.

Unlawful seizure of a conveyance which is an airliner, gives a chance to move to any place in the world with a great number of hostages. A purpose which usually is the spotlight of media attention, is achieved almost in every case. It is because of every act of unlawful interference is inseparable from the very serious consequences in international air navigation.

Moreover, there is no way to hide from the public the fact of hijacking (Jałoszyński, 1998, 50). Analogous arguments motivate terrorists to carry out attacks on airport infrastructure. Those places are almost always permanently full of large group of passengers. Every attack carried out in places like this cause a significant number of victims, where through an intended effect of propaganda is achieved.

### **The classification of terrorism according to international law.**

Currently in the literature it is used many terms to determine the effect of unlawful hijack of aircraft. At present you may find in the Polish sources the concept of “air piracy” (eng. hijacking). In American literature is often used the term “skyjacking”.

The air terrorism can occur with many forms e.g.: it may be abducting a civilian passenger aircrafts during a flight or at the airport, it may be attacking passenger aircrafts during take-off or landing using handheld anti-aircraft sets, or any other unlawful interference causing danger to the crew or passengers. In addition, the name of the air terrorism carries also threats which were brought by interfering in an airport infrastructure.

Distribution of events that can be classified as acts of air terrorism, is shown below.

Attack on board	Attack made from the air	Attack on the air ship	Attack on the logistics infrastructure
<ul style="list-style-type: none"> <li>- kidnapping;</li> <li>- bombing;</li> <li>- taking hostages;</li> </ul>	<ul style="list-style-type: none"> <li>- aircrafts as bombs;</li> <li>- using of light aircrafts;</li> <li>- using of hang-glider, powered paraglider;</li> <li>- using of combat resources flights</li> </ul>	<ul style="list-style-type: none"> <li>- anti-aircraft missiles (mobile, manual, stationary);</li> <li>- snipers;</li> <li>- sabotage;</li> <li>- resources electronic interference</li> </ul>	<ul style="list-style-type: none"> <li>- the air traffic control system;</li> <li>- the ground handling system;</li> <li>- betting aircraft industry (aircraft manufacturers)</li> </ul>

The terrorist attack from the air does not necessarily apply only to a civil aviation, it also can be a hit by an aircraft on military objectives, civilian objects relevant for the functioning of the state and the civilian population.

In time it may predict following types of dangers from the air (Olszewski, 2002, 51):

- The terroristic attack from the air: hijacking an aircraft or the other air ship filled with fuel or explosive to destroy a specified object or attacking civilian population by hitting hijacking an aircraft to attack; using an air ship (manned flight or unmanned flight) as a

mode of transport to throw (pulverization) toxic agents (chemical or biological); using a air ship with nuclear charge or so-called “dirty bomb” to destroy very important object (e.g. atomic power plant, water dam) or contaminate of land.

- The recognition from the air by using manned aircraft or unmanned aerial means. It can be made to get information about objects or areas, important for functioning states (military objectives, political centers, financial centers, etc.).

- The violation of the airspace of the state to investigate the possibility of an air defense system of the country as the speed of response and the way it affects an aircraft violating the planned flight conditions.

- The possibility of doing a classic, an unexpected strikes from the air by:
  - ballistic missiles,
  - military manned and unmanned air attack means,
  - MANPADS – (Man-portable air-defense system) quite often used by terrorists in recent years. According to many experts, in the future it may be the most dangerous weapon in their hands.

Airports in particular aviation ground facilities may also be a subject of a terrorist attacks. Objects and devices to manage, control, supervise and protect an air traffic among them: VIP terminals, passengers terminals, cargo terminals, air port traffic control towers, electric power generators, fuel storages and lubricants magazines, air conditioning and ventilation system, side-tracks, water intakes, airport aprons; garages and the others devices or objects. According to C.IA. from the end of 2002 year, in the Word has been recorded at least 42 cases of attacks on airlines using MANPADS since 1970. In 29 cases airplanes were shot down, in other words 69% of attacks was ended with the success of terrorists, as a result 900 passengers different type of airlines suffered death.

## **The role of the Polish Air Force in combating terrorist threats**

The Air Force is a kind of armed forces, which primary task is the national airspace defense. Function as a part of the national air defense system, which is integrated with the allies and with the relevant European civil-military air defense system. The Polish Air Force Command (so-called DSP) is responsible for leading of The Polish Air Force and is located in Warsaw. The Air Force is one of elements of the counter-terrorism on aircrafts. The Air Force is assigned to prevent a terrorism air assault by using aircrafts. The Aviation Security Systems based on satellite networks, air and ground electronic identification. There are three main groups of prevention: prophylactic actions, preventive actions as well as actions to combat the terrorist threat. The Air Force to combat terrorism may use different forms and methods of counteracting. In the process of responding to threats from the air being an aerial terrorism, the most the most important role is played by dedicated efforts and resources ORA-I (Quick Reaction Alert-Intercept), performing combat duties in the NATO Integrated Air Defense System (NATINADS). Supervision of NATO airspace (Air Policing), carried out by on-duty forces and means of the Polish Air Force during peace and crisis includes:

- analysis and assessment of air situation within the Republic of Poland and to inform the Combined Air and Space Operations Center (CAOC) about a potential danger of a violation of NATO airspace or aircraft flight conditions,
- identification of airborne objects and distribution of the recognized air picture of the situation (so-called Recognised Air Picture - RAP) to authorized users,
- preventing terrorism threats from the air such RENEGADE (unrecognized air object),
- capturing aircraft violating of NATO airspace or required flight conditions,
- assisting aircrafts which are being in danger.

The Polish Air Force Commander decides about using armaments by on-duty forces hunter aviation in other words Quick Reaction Alert-Intercept in Polish airspace. The Duty Air Defense Commander as NGA (National Governmental Authority) has the mandate to communicate with commanders of NATO, also has the right to take over command and to perform further action if there is a situation of “Renegade”.

In terms of its remit is also to accept the decision to use weapons made by the commander on duty Combined Air Operations Center (CAOC - called Combined Air Operation Centre) established in Ueden in Germany. In his terms of reference is also to accept decisions about using armaments made by Duty CAOC Commander (CAOC - called Combined Air Operation Centre) located in Ueden in Germany. The main and the most important organization that supervises organization and safety of air traffic is the International Civil Aviation Organization (ICAO). Due to ICAO's activities there were elaborated very important documents restricting activities of terrorist groups in air traffic.

- Tokyo Convention signed on 14<sup>th</sup> September 1963, for preventing aircraft hijacking and unlawful acts on board aircraft. The convention defines who owns jurisdiction over offenses and acts committed on board aircraft. The convention on offences and certain other acts committed on board aircraft was signed at Tokyo on 14<sup>th</sup> September 1963 and on the same day the convention was adopted by Poland. After the ratification the Convention came into force and took effect on 17<sup>th</sup> June 1971.

- The Hague Conventions for the Suppression of Unlawful Seizure of Aircraft. The convention was signed at Hague on 16<sup>th</sup> December 1970 and has been ratified by 148 states. It imposes an obligation of severe punishment and establishes rules of jurisdiction and proceedings designed to exclude impunity. This convention was a certain complement of the Tokyo Convention. It is because Tokyo Convention did not implement an obligation to extradite people who commit, tried to or intend to make the attempted act of unlawful seizure of aircraft (Cyrus, Jasiński, 1970, 151). This convention entered into force on 14<sup>th</sup> of October, 1971 and took effect on 20<sup>th</sup> April 1972.

- The Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation. The convention was adopted on 1<sup>st</sup> of October 1971 in Montreal, for the prosecution of perpetrators of illegal activities affecting the safety of civil aviation, which relates to unlawful attacks affecting the safety of civil aviation, as well as sabotage and destruction of aircraft and damaging air navigation facilities. It introduces an obligation of severe punishment these acts, as well as fix a number of policies, similar to those in the Hague Convention. Poland signed it on 24<sup>th</sup> February 1988. This document was in effect in our country on 11<sup>th</sup> September 2004.

Following the attacks of 11 September 2001 on the Twin Towers and the Pentagon, the UN Security Council, adopted Resolution No 1373 of 28<sup>th</sup> September 2001, which requires states to pull to justice anyone who finance terrorism, the freezing of the bank accounts of people for which there suspected to be involved in terrorist activities, not to provide assistance to entities or persons involved in terrorist activities, transferring information about terrorist activities to other states.

Polish legislation in force, which regulate the safety of air traffic:

- Aviation law from 3<sup>th</sup> July 2002 (Journal of Law 2006, No100, item. 696);
- Law on protection of state border from 12<sup>th</sup> October 1990 (Journal of Law 2005, No226, item. 1944);
- Council of Ministers of 14<sup>th</sup> December 2004 concerning a proceeding in the application of air defense against foreign aircraft not complying with the subpoenas state traffic management authority (Journal of Law 2004, No 279, item. 2757);
- Council of Ministers of 19<sup>th</sup> June 2007 on the National Civil Aviation Security Program implementing the safety rules (Journal of Law 2007, No 116, item. 803).

Poland is a party to the above-mentioned conventions and resolution, because of being connected with their resolutions. In accordance with Article 9 of The Polish Constitution from 2nd April 1997 "The Republic of Poland shall respect international law binding upon it". In accordance with Article 87 paragraph 1 of The Constitution ratified international agreements in Poland are engendered obligatory law.

Poland gradually introduces appropriate regulations into national law in order to fulfill the obligations arising from signed conventions.

## **Polish foreign policy in a united and secure Europe**

After 1989, there has been a fundamental change in foreign policy orientation.

In place of the communist foreign policy emerged Polish foreign policy. This was done both by a qualitative change of Polish international environment and in an even greater extent under the influence of internal conditions of qualitative transformation of foreign policy. This transformation has been developed with a new foreign policy soon in many respects ahead of examples of internal changes. Through foreign policy and external relations effected transmission of outside "pressure" on the rate of internal transformations that were still incomplete. The transformation is illustrated by changes such as laying of foundations of bilateral relations with all seven new Polish neighbors, acquire the status of NATO member, and creation a close alliance with the USA, radical change of Polish-German relations, the inclusion in the system of open and liberal world economy - which formal expression is Polish membership in the World Trade Organization [WTO] and OECD. These changes have become a reality from the perspective of 1989, they are a real peaceful revolution - thanks to the victory of the East European "Spring of Nations" (Halizak & Kuźniar, 2006, p. 535). The Polish state was in deep political-institutional, economic and social life crisis. The political transformation process announced to be a decidedly difficult and laden by risk of instability. The deep economic stagnation, excited social expectations of improvements the material situation that caused, that foreign policy was devoid of any resources, the task of the new foreign policy were disproportionately great for the expectations. It was necessary to confront and work out a political and legal basis for bilateral relations with our new neighbors, whose number increased from 3 to 7. Furthermore, it was necessary to set a strategic direction of Polish foreign policy, which could be made cautiously and gradually, through internal and international developments. It was necessary to work towards consolidating the direction of transformation, as well as prudent to move ill not compromise the current and long-term interests of the Polish, mainly of its sovereignty (Halizak & Kuźniar, 2006, p. 540). Polish and European policy have been developed consistently and in various ways. In the multilateral dimension it was based on the earliest possible inclusion Polish into Western international organizations, although initially it came very hard, just when Poland put forward the thesis "only America is able to give Poland a guarantee of safety" what in fact meant a lack of confidence in Polish accession to NATO and the European Union, the situation changed diametrically. The key of Polish foreign policy since 1989 were: independence - security - development, with all the possible ways Poland tried to achieve all three categories of national interest as the Polish *raison d'état*.

Stage of "sovereignty" includes the first years of Poland's foreign policy in years 1989 - 1992. Main point was then to primarily a safe, prudent to free ourselves from dependence and restrictions to which our country was subjected until 1989. Then also was chosen direction for the EU and NATO integration, as well as intensively developed subregional cooperation.

Stage of "security" covered more or less years 1993 - 1998, during which, the priority of the Polish foreign policy and diplomacy was to gain membership in the Atlantic Alliance. Poles chose the most effective, in the modern history, political-military alliance in which

the membership assured us of both (in addition to safety ) a permanent place in the family member of Western civilization, which is part of Poland for thousand years.

Stage of 'development', since the mid 20th century was under motto "struggle for the Union," that is an enormous effort in the implementation of the provisions of the Polish program of adjustment and negotiation associated with the desire to join the European Union. Achieving this purpose, in accordance with the usual assumptions of Warsaw and Brussels, became the termination of unique period in Polish history.

The successes of Polish foreign policy in relation to the existential triad (sovereignty, security, development) raised polish international position (Halizak & Kuźniar, 2006, pp. 549-550).



# **IX**

## **The threat of terrorism on seas and oceans**



Currently growing anxieties, home wars, and different kind revolutions, have huge influence on situation the in global sea navigation. Such situation occur on waters around Indonesia, Sri Lanka, Philippines, Liberia, Sierra Leone, Somalia, Ivory Coast - on which is swarming with pirates and sea terrorists, attacking on helpless sea ships. That's easy way to high profit, which they achieve with sale of loads from assaulted ships or ransom for kidnapped crews and passengers.

Those illegal sources of profits reinforces the economy of poor those states. The dealing is controlled by international gangs related directly with great business and corrupted state administration, army, and police.

Last years are the period of growth of acts of violence influenced on international relations. These acts are the consequence of the progressive process of globalisation with which is connected the growth of intensity of economic exchange. Special place in this exchange occupies sea transportation, which makes up the more and more important link of global transportation system. Meanwhile the violence on sea stays imperceptible problem, which is marginalised in respect of different acts of violence on land.

In general idea this problem is reduced to loud abductions of ships' passenger, first comes to my mind case of Italian cruise ship Achille Laura from 1985 year. Different acts of violence on sea stays normally impercepted. In connection with that range of dangers caused by this phenomenon is well-known to this time only narrow circle of experts.

Attack on american destroyer USS Cole in connection with events of 11 September 2001 year (attempts on World Trade Centre and Pentagon), which begins present asymmetric war made aware world realism of this threat. (Asymmetric war is war between sides administering uneven strengths, in which weaker of them tries to neutralize one's enemy's strength, in this his higher level technological advancement, by utilization his weakness. To mark on example this the leadership of guerrilla war against stronger enemy (Ilnicki, Kubiak & Mickiewicz, 2006, p. 9)

Increasing quantity and frequency of acts of the violence which occurred on sea reservoirs displays disturbing state of safety on waters of seas and oceans.

We can consider, that in the face of enlargement efforts of improvement of safety key installations and the land objects, as well as the civil aviation - the future acts of violence can be directed on the most faintly protected elements of economic system of the richest countries of the world - what is the sea trade and the trade navigation (including raw materials). None of sea states do not dispose at present finished plans and procedures of assumption one's navigation sufficient protection against terroristic attacks.

Such intentions can be quickly realized in coastal regions, but putting them into operation on full sea is little probable (Łopuski, 1982, p. 60). It is one should underline, that except convoy experiences as well as resulting with American protection of tankers in Persian Gulf in years 80. there is lack of historical patterns on which can we base the organization of protection of navigation.

Currently, the decisive factor of economic development is access to energy resources. This is also the most vulnerable to terrorist attacks, part of a global economic system, which is the maritime transportation system of oil and gas. Ensuring a stable supply of raw materials is a prerequisite for continued economic growth, and competition for influence in the areas of mining remains one of the most frequently mentioned factors triggering conflict.

Oil and gas are the most important sources of energy, without the massive use of modern civilization could not exist (daily demand for oil in the world is 81.1 million barrels). Localisation of oil deposits and its consumption results in that it is also one of the most important load in cargo shipping. Without a doubt, energy resources are the lifeblood of the modern world. If, therefore, in recent years we have seen rapid increase in the importance of international relations of the so-called non-state actors, then we can assume that the same state as before they would take action against the global marine energy transportation system.

The attractiveness of ships with dangerous cargo (tankers, gas carriers, chemical

tankers), as objects of violence results due to its ability to transfer their dangerous cargo. This allows putting the demands and threats of release of stolen cargo and thus call such an environmental disaster. In addition, advances in technology and the unlimited possibilities of the use of information and communications technologies allows this type of action by non-state groups. They can, using simple and inexpensive means to obtain spectacular results remain the same and at the same time difficult to identify or detect and destroy.

Another important risk factor is also the issue of maritime piracy. Contrary to popular belief, this phenomenon has not been completely eliminated in the XIXth century. The trade began to revive in the 70. of the last century with the Thai attacks on Vietnamese fishermen in boats.

For over 20 years the area, which concentrate armed robberies, is South-East Asia and the Pacific. It is true that the number of reported attacks is decreasing, but is also true that observed more and more ruthless actions of perpetrators - in 2010, pirates attacked 445 ships, hijacked 53 of them, they took 1180 sailors prisoner, and 8 killed. The most dangerous are the ports in Bangladesh (Chittagong), Indonesia (Tanjung-Priok), and ports along the fairway of Malacca.

For several years, the phenomenon of maritime piracy and terrorism rise on a scale threat to international security and international shipping and the current year, 2012 is not the exception.

Fundamental role, affected on the intensity of this phenomenon is an increase in the number of different international and internal conflicts after the Cold War. In many cases, the conflicts sites move their activities on marine areas. The continual growth of those zones of violence has an huge impact on the situation of international merchant shipping.

Therefore global anxiety does not refer only to the land security, the continual expansion of the areas of instability has a profound impact on commercial shipping.

Another reason is a decrease in the number of warships operating in hazardous areas.

In recent years pirates and maritime terrorists also joined the groups of partisans who are not interested in taking over the ship or its cargo and crew. Their only goal is to blow up the craft in a spectacular way.

From the point of view of the maritime transport of oil and products of its processing - a key role plays the world's geographic location, refineries and oil consumption centers.

North America, Japan and Western Europe are regions where the refineries are located constituting 40% of the world where the processing capacity and consumes over 52% of world production of crude oil. But simultaneously they have a little over 10% of the world's oil. The combined oil production in the U.S.A. and the European Union accounts for about 30% of world production. Japan does not own oil resources. Thus, these three areas are also the three largest and leading importers of oil and its processing products (60% of world imports) (Ilnicki, Kubiak & Mickiewicz, 2006, p. 40).

Transportation of oil and natural gas is carried out using several, basically unchanging shipping lanes, which are conditioned by the general course of some geographical factors. They lead through the straits, which are critical points - both from the point of view of safety of navigation, as well as the possibility of a different acts of violence. One of the most important oil transport fairway leads from the Persian Gulf to Western Europe.

Imported oil satisfy about 48% of Europe's needs. In the 1st variant that fairway runs on the Arabian Sea along the coast of East Africa, east of Madagascar, around the Cape of Good Hope, along the coast of Africa and the Iberian Peninsula. It is used mainly by the VLCC - type tankers (Łopuski, 1982, p.60), which, because of the dimensions can not pass through the Suez Canal. The main risk of this way results from the fact that it runs along the coast of the relatively unstable African countries whose governments are not fully able to control its territory.

In 2nd variant - tankers use fairway run to Europe after leaving the Persian Gulf through the Arabian Sea, Strait of Bab el Mandeb, Red Sea, Suez Canal and the Mediterranean

Sea. We should consider the real threat of organizing on this way bases for criminal groups on the territory of Eritrea and Sudan (Red Sea coast).

Smaller, but not impossible is the likelihood of such groups in the area of Djibouti, Egypt and Saudi Arabia.

Oil and gas from the Persian Gulf region play an important role in the energy balance of the most developed countries in South and East Asia. Shipping in this relations takes place on the fairway through the Arabian Sea, Indian Ocean, Strait of Malacca and the South China Sea.

As a real threat of violence against maritime communication should be also regarded on the South China Sea from territory of the Philippines, especially in the southern areas of the archipelago, where an Islamic insurgency is active. Totally different threats to navigation may also create intersecting territorial claims of China, the Philippines, Vietnam, Taiwan and Malaysia to the South China Sea archipelago (Paracel Islands and Spratly Islands).

Oil in the Persian Gulf region is also transported to the ports of the east coast of the USA. Threats to navigation on this route are similar to those discussed in the case of shipping connection between Persian Gulf - Western Europe.

A different situation exists on the important route between the northern coast of South America (Venezuela's oil fields and refineries in the Netherlands Antilles, gas reserves in Trinidad and Tobago) to the U.S.A ports in Gulf of Mexico.

On crossed by that way water reseirvoirs organized crime groups lead active actions. They mainly are engaged in drug trafficking, but relatively often there are also reports of acts of piracy. At sea, with the high intensity, works also Muslim rebels from the south Philippine island of Mindanao, and marine formations of Tamil Tigers succeeded over the years to effectively block the Jaffna peninsula in northern Sri Lanka like also in the Gulf of Guinea after decades of civil wars in Liberia, Sierra Leone and Côte d'Ivoire have resulted in significant increase in threats in coastal waters. Equally dangerous are the waters of Somalia.

According to CIA analysts, just Al-Qaeda and other terrorist groups linked to it have dozens of units which can be determined, as a ghost-ships. One of those ships has provided the materials necessary to carry out an attack on the U.S.A. embassy in Kenya in 1998 (Szubrycht, 2009, p.230).

Action against ships carrying energy resources, aimed at the port and transmission of energy and oil infrastructure and rigs. It aims to bring about danger primarily in the area of energy security of Western countries. Thereby that lead to the destabilization of the economy, through the disruption of continuity of supply, and cause a rise in prices of raw materials on world markets. Specific side effect of the media notoriety is causing environmental threat, which is inextricably linked with an increased sense of fear among the local community as well as internationally. There is no doubt that terrorist groups linked to Al-Qaeda not only seriously consider, but also lead to the preparation of such attacks, which could seriously slow down economic growth in the world. Trade disturbance at ports and terminals are primarily economic dimension. Terrorists, by causing significant damage to property, want to bring to the economic difficulties of the country which is the real object of attack and therefore reduce public support for the elites, who are in power (civil authorities).

With the increasing threat of terrorism we began to pay more attention to the potential consequences of the share of extremists against floating marine units, hydrotechnical building and to the port installations and terminals. To the most probable forms of terrorist activities in sea areas we can include: an attack using explosives landed a boat manned by a suicide bomber, the use of the ship to the port blocking or sensitive shipping lane (the strait, channel or fairway) or use the traffic load to cause failure ecological, etc.

From 1 July 2004, a reaction to the threat is a new international strategy that will enhance safety at sea and in ports: passport checks at entrances, metal detectors, baggage screening, barbed wire on the platforms port security patrols, cameras. It is part of the activities of the entire spectrum of safety regulations that are implemented primarily in the U.S.A. and especially in the case of transatlantic freighters. The legal basis of the action determines the

International Ship and Port Facility Security Code (ISPS). These rules were adopted by the International Maritime Organisation (IMO), International Maritime Organization and the United Nations acting are designed to prevent terrorist attacks at sea and in ports. These measures are, however, expensive and time consuming. As reported German Shipowners' Association (VDR) using the security cost for each of the approximately 2 400 of vessels belonging to the member companies of up to 30 000 Euro. And they even more expensive is the safety program for the same ports.

## **The legal status of the sea areas in the aspect of threat of violence attacks. Jurisdiction of State at sea**

Freedom of navigation on the high seas (Szubrycht, 2009, p. 60) is a key principle of the modern law of the sea.

The essence of the doctrine of freedom of the seas is the fact that no state should exercise over any part of their sovereignty. A general rule, however, depends on the doctrine of recognition, acquiescence, and prescription, according to which the state accepted by other long-term use of certain areas of the high seas adjacent to the territorial sea of a State may extend to its supremacy (Shawn, 2006, p. 320).

According to definition entered in Article 1 of the "The term "high seas" means all parts of the sea that are not included in the territorial sea or in the internal waters of a State". This wording reflects the standards of customary international law, however, as a result of the development of the law of the high seas in the definition of art. 86 Convention on the Law of the Sea "The provisions of this Part apply to all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State"(Shawn, 2006, p. 323).

Article 87 of the Convention on the Law of the Sea (which is a development of art. 2 of the Convention of 1958) states that "The high seas are open to all States".

That freedom should be used under the terms of the Convention and other rules of international law. It includes, among others: freedom of navigation, freedom of overflight, freedom of laying of submarine cables and pipelines, freedom of construct artificial islands and other installations permitted under international law, fisheries and surface studies (Łukaszczuk, 1997, pp.69-72).

The freedom of the sea which is in force on the high seas means that all countries, their vessels and citizens can use it on the basis of full equality. Freedom of shipping means that every state has the right to use the seas for navigation of commercial vessels (public and private) and ships. A ship without a flag is deprived of many privileges and rights under the legal regime of the high seas.

On the high seas, each state has the right to exercise the power under the sovereignty in relation to the ship's own ship and under international law (customs and international agreements) in relation to foreign ships (Zaorski,1962, pp. 69-72). This principle was confirmed by the Geneva Convention of 1958. (Article 4) and Convention of the Law of the Sea (Article 90), which provides that vessels sail under the flag of one State only and, save in exceptional cases provided for in international treaties or in the Convention, its exclusive jurisdiction.

Nationality of the ship forms the basis of the to undergo ship to an authority and the law. It also provides diplomatic and consular protection. In order to increase the efficiency of state jurisdiction and control over ships flying its flag in administrative, technical and social aspects (art. 94)

- keeping a record of naval ships flying its flag;
- submission of national jurisdiction ship with a crew of technical supervision and social issues (Kubiak, 2009, p. 29).

However, in paragraph 6 of Article 94 of the Convention formulated the law of any state which have of course the basis to judge that it is not actually used to the jurisdiction and control of the ship-to notify the flag state. Upon receipt of such notification, flag state shall investigate the matter, and if it would be advisable it should take all necessary measures to improve the situation. States which ratified convention to combat transnational crime, maintain order on certain waters of the high seas and ensure the enforcement of international agreements on the protection of biological resources of the sea, pollution, and protection of cables and pipelines, have agreed to a restriction on the exclusive competence of the ships of their own flag by granting reciprocal rights to the supervision and control of his ships or vessels authorized state. Convention of the Law of the Sea of 1982 provides for the possibility of the right of visit and search if there are reasonable grounds for suspecting that the ship:

- is engaged in piracy;
- deal in drug trafficking;
- suitable illegal radio broadcasts of the high seas;
- does not have a nationality;
- though it flow with foreign flag or refuse to show its flag (Brodecki, 1983, p. 441).

Power to arrest of the ship on foreign merchant ships on the high seas in the Convention in certain situations is also entitled to military aircraft and ships and aircraft who are in government service. However, they must be authorized to do so by the government of the country concerned.

Even more difficult situations are bound with effective combating maritime terrorism and piracy off the coast, especially in situations where the perpetrator acts in the waters of the state (territorial sea), and state does not exercise effective control over them, while refusing incorporation of international cooperation in the fight against maritime crime.

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In contemporary times it is possible to replace at least several of the coastal States and archipelagic, whose jurisdiction over the territorial waters is purely formal, and which definitely refuse to accept foreign aid, for example in the fight against piracy and other illegal practices, such as drug smuggling (Sierra Leone, Liberia, Guinea Bissau, Mauritania, Colombia and others). Specific hypersensitivity of many states on the issue of its own sovereignty, combined with links in combination with branched corruption in the local administration and police forces, currently makes combating piracy on many waters simply impossible. Similarly the issue of operation against maritime terrorism.

Only after a series of spectacular attacks on ships off the coast of Somalia, the three permanent members of the UN Security Council - United Kingdom, United States of America and France with Panama has prepared a draft resolution to authorise its naval forces for carrying out activities in the territorial seas of Somalia for the purpose of carrying out chasing culprits of robberies on ships and countermeasures on the waters of the armed attacks. The resolution authorizes Member States to use all possible means in order to carry out these tasks. It was adopted on June 3, 2008 (UN Security Council condemns acts of piracy, armed robbery off Somalia's coast 1816/2008) (Młynarczyk, 2002, pp. 162-163). At the same time, the duration of the resolution was limited to six months, and the Member States which directed their forces in Somali waters was imposed a strict obligation to cooperate with the authorities in Mogadishu. Adoption of the resolution, however, did not lead to an increase in the effectiveness of anti-piracy, in connection with the UN Security

Council passed a resolution on October 7 (UN Security Council asks nations with military capacity in area to 'actively fight piracy' on high seas off Somalia - resolution 1838/2008), which calls on Member States to channel the waters of Somalia their ships and aircraft, and implement procedures to coordinate action against pirates.

Despite the fact that the existing legislation does not facilitate an effective counter piracy and maritime terrorism, the legal changes in the near future are highly unlikely. States which lead anti-piracy operations and anti-terrorism at sea will be forced to accept the fact that the existing regulations limit the effectiveness of the taken actions, or will even put them beyond the limits of the current legislation. This situation favors the perpetrators of attacks, and may also have a detrimental effect on the perception of the global review of marine operations aimed at ensuring the safety of navigation.

Terrorist organisations wishing to operate at sea, favors also changes in the relations in international shipping. Deviations from the traditional system, in which as a result of the transformation - owner and the shipowner are often different people. In addition, if they also have established in different states, may arise the problem of double registration of one ship, but only one belonging.

Besides the legal issues, also keep in mind that the vessels are relatively easy to come by, and this at reasonable prices. For about \$ 1 million can purchase seaworthy entity, legalize it and send it to the sea.

In this way, a terrorist organization is able to acquire an entity capable, after a relatively minor adaptations, to act as a minelayer, base of floating armed fast boats, weapons transporter, and even individuals intended to cause a collision with the tanker, or just sinking in order to block important fairway.

What's more, it will be fully legally navigating unit, to which, from the formal point of view, will apply only to the authority of the flag state of the ship. Such a situation would impede effective maritime counter-terrorism.

## **Combating violence against maritime transport and shipping in the light of international law and regulations of the International Maritime Organization in this area**

International law (initially customary) , then unified considered piracy as a crime, and the pirates for the enemies of the human race.

Standards for piracy are contained in articles 14 to 21 of Geneva Conventions on the Law of the Sea of 1958 (UNCLOS I) (Mika, 1982, p. 62). While United Nations Convention on the Law of the Sea (UNCLOS III) of 1982 in articles 100 to 107 repeats the exact wording of the law of Geneva. The need for this arises from the fact that until the present times have failed to stamp out piracy, as a phenomenon, as evidenced by the attack on the Caribbean Sea, off the coast of Nigerian and Somali, and in the Gulf of Thailand. Therefore, the duty of cooperation between the Member States in the fight against piracy, as stated in article 100, is still current (Wisła, 1984, pp. 51-57). As crucial in the fight against piracy is regulation of article 105 of the UNCLOS III "On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith." (Mika, 1982, p. 63).

The issue of violence at sea and their prevention in the most universal is taking the Rome convention (Convention for the suppression of unlawful acts against the safety of maritime navigation (SUA)). Articles 4 and 5 contains information for which offenses will

that convention apply and where. These include: crime against a ship or on board a vessel at the time of the lifting of the crime flag of that state; in the territory of that state; by the person who holds the nationality of that state, etc.

SUA contains the most accurate analysis in combating acts of violence committed at sea. It specifies the exact action and measures to take, which is authorized in the fight against acts of piracy (Makowski, 2007, p.95).

More importantly, the SUA Convention, in contrast to UNCLOS III of 1982, also encompasses the territorial seas. It may be, therefore, apply to acts of violence defined as an armed attack. But excludes internal waters and inland waterways except that an entity affected by one of the activities listed in the convention planning and implementing international voyage (Łopuski, 1982, p. 62). Territorial waters are out to 12 nautical miles (~22 km) from the baseline, the coastal state is free to set laws, regulate use, and use any resource. Vessels were given the right of innocent passage through any territorial waters, with strategic straits allowing the passage of military craft as transit passage, in that naval vessels are allowed to maintain postures that would be illegal in territorial waters.

In summary, provided an effective fight against transnational crime are precisely the regulations which have to be the basis for the fight. On 9-13 December 2002 at the IMO headquarters in London held a conference. During the conference, presented proposals for new regulations aimed at increasing the level of safety of vessels and shore installations in the context of the threat of terrorism. They took the form of the following amendments to the International Convention for the Safety of Life at Sea (SOLAS) of 25 May 1980.

- amendments to the SOLAS of 1974 and the resolution No. 1 for such amendments;
- International Ship and Port Facility Security Code (ISPS);
- Resolution No. 3-11.

Amendment to the Convention, together with the resolution on their No. 1 include:

- changes in chapter V of the Convention - safety of navigation (in articles 2, 4, 2, sections 4 to 6 have been replaced by subsection 4, which introduced a faster deadline for equipping vessels in the so called Automatic Identification System (AIS);
- changes in chapter XI of the Convention - Special Measures to Enhance Maritime Safety;
- the current chapter XI was renumbered on chapter XI-1, in which extended regulation (regulation 3 § 4) concerning the Ship Identification Number by indicating that this number should be permanently visible and the detailed rules for its construction; In addition, the introduced regulation 5 - about the register of actions (Continuous Synopsis Record - (CSR)), which stipulate that every ship to which chapter I of SOLAS convention of 1974 relates, has a duty to be equipped with such CSR, whose goal is to document the fate of the ship and board action.

The document introduces the so-called register of actions. CSR, for the identification of the craft, is issued by the maritime administration of the flag state of the ship. The amendments to the SOLAS convention stipulate it should at a minimum variant include:

- the name of the vessel;
- flag of the State;
- the date of registration in the flag state;
- the identification number of the vessel;
- port of registry;
- the name and address of the owner of the ship;
- the name and address of the charterer of the vessel (in the case of charter);
- the name of the institution who rated;
- the name of the maritime administration or recognized (authorized) by the organization authority which issued the Document of Compliance (DOC) (Kubiak, 2009, pp. 46-47).

Safety Management Certificate (SMC) compatible International Safety Management ISM Code-Code and International Ship Security Certificate in accordance with ISPS Code part A.

This is a kind of 'identity card' of the ship or comparable document with used in car transport 'vehicle card'. In addition to the rapid identification of the vessel to prevent a repetition of the introduction of CSR for use, for example, after the abduction by pirates. It is assumed that the lack of current CSR will prevent its registration in such a situation, granting class and insurance.

Amendments to the SOLAS convention established the International code for the security of ships and port facilities - the ISPS Code. The main reasons for its creation was to establish an international framework for cooperation between governments, government agencies, local government, port authorities and shipping sector for early detection of terrorist threats to security of institutions, facilities, equipment and installations - to security of broadly defined shipping sector and port, as well as venture prevention efforts within this sector.

The code specifies the scope of activities that are the responsibility of governments and government agencies, the local administration, the boards of ports and shipping companies, and should be taken to ensure the safety of shipping, including early detection of symptoms, risks and ensure the smooth and rapid flow of information collected.

Another important new feature is the introduction of uniform criteria for assessing the level of protection of an object, its current safety procedures and emergency response plans. The code applies in respect of passenger vessels (including high-speed units), cargo ships (including: chemical tankers, bulk carriers, oil tankers, gas carriers for the carriage of petroleum products, including high-speed units of 500 gross tonnage and above), the floating rigs and port facilities.

Among the most important provisions of the code, should be indicated the separate position of ship protection officer (the person responsible before the captain for the safety and protection of the ship) and for the conservation officer appointed by the shipowner (applies to the person designated by the company to develop on the Mainland, and updating the ship security plan). On the ship were required to have a current conservation plan. Document made to ensure the application of the measures referred to in the ship for the protection of persons and goods against the risks of a security risk. Similar steps were taken in relation to the port officer position was created for the protection of port facilities and introduced to prepare and update the port facility security plan.

## **Terrorist threats in maritime transport**

Fear of attacks on ships intensified after the Bin Laden speeches from October 2004, when he stated that the most important target is the global economy. And yet all the time 90% of the global movement of goods is done by sea. According to estimates of the international intelligence services there are many terrorist groups that are operationally capable of at this point, to carry out an attack at sea, in summary, the issue of terrorism threats in the marine carriage of recognised we can in the following conclusions:

- maritime economy is a kind of soft underbelly of the global economy;
- terrorist acts cause a wide range of risks (economic, political, environmental and social);
- threat is not only the number of attacks, but also a real possibility of their occurrence;
- to paralyze shipping and maritime trade are not needed naval forces in the classical sense;
- terrorists can not be beat in close combat at sea;
- maritime terrorist threat has primarily a regional and global;
- Measures to increase security in the maritime areas, despite the fact that involve significant costs, are relatively ineffective, because maritime terrorism has a choice of a variety of objects of attack.

The international community in the fight against maritime terrorism, is characterized by

a passive attitude. The fact is that the terrorists decide about the time, place, method and object of attack. It is important, therefore the analysis of terrorist threats from the point of view of the terrorists.

Although the world puts a lot of power in the fight against piracy and illegal fishing - one of the major causes of the development of piracy, with such force is not trying to stop it. Despite the risks, non-registered boats still circulates off the coast of Somalia. According to the International Monitoring Organization monitoring the High Seas Task Force Somalians lose about 450 million dollars per year. Revenge for being so brazen theft of a highly motivated and still is an excuse used by the maritime hijackers. You can see it even in the names of some pirated gangs. One of them is referred to as the National Volunteer Coast Guard. Piracy can not be root out if Somalia does not reign although the relative order, and its inhabitants will not have a chance of finding a fair deal. Until then, pirates can kill, catch and drive, but they will take care of the future.

## **International and regional regulations to minimize the threat to maritime transport**

High sea sailing is considered to be the sphere of human activity with a higher degree of risk, which is the result of internal and external risks. The term internal risk need to understand any risks that are associated with the operation of the vessel, namely: navigation safety, technical and operational risk and underestimated by many human factors.

However, the external threats include those whose source or cause lies outside the unit to which the vessel and the crew has no direct effect. We can divide them into the following groups of risks, namely hydro, security, navigation, risks related to the activities carried out extra-judicial and military activities.

Ensuring the appropriate level of internal security on vessels is one of the basic duties of managers (the owner, the captain of the ship officers and staff). However, to minimize external threats is the primary duty of the international and national institutions.

Due to its international nature, maritime navigation in the context of security must be based on the cooperation of all actors involved in it. Providing a broad-based international shipping safety requires a comprehensive approach and the cooperation of the entire international community. Because the problems of navigation threats and risks are compounded by the following elements: traffic intensity, size of vessels, sea, to which it is performed, and economic and political factors.

In this chapter I will discuss the main activities of the international community and individual countries to minimize the risks, which must meet very modern shipping.

The International Maritime Organisation (IMO) is a specialized public international organization of the UN system of normative, completely dedicated to all aspects of shipping. Its activities focus on issues of maritime safety and prevention of pollution of the marine environment by ships (Rokiciński, 2006a, pp 126-127).

At the end of 2009, the members of the IMO were 169 states and three territories (the Faroe Islands, Hong Kong and Macau) were associate members. Cooperation agreement with the IMO have also signed 40 government organizations and consultative status with IMO has 61 non-governmental organizations. This organization has developed and actively participated in the creation of the following international agreements that have become the basic documents for the global shipping. The most important documents related to the theme of development can include:

- The Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLRECS)
- The International Convention for the Prevention of Pollution from Ships, 1978 (MARPOL)

- The International Convention on Maritime Search and Rescue, 1979 (SAR)
- The International Convention for the Safety of Life at Sea, 1974 (SOLAS)
- The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW)
- Convention for the suppression of unlawful acts against the safety of maritime navigation (SUA)
- Protocol for the Suppression of Unlawful Acts against the Safety of weak Platforms Located on the Continental Shelf (SUA Pr.) (Rokiciński, 2006a, p. 127)

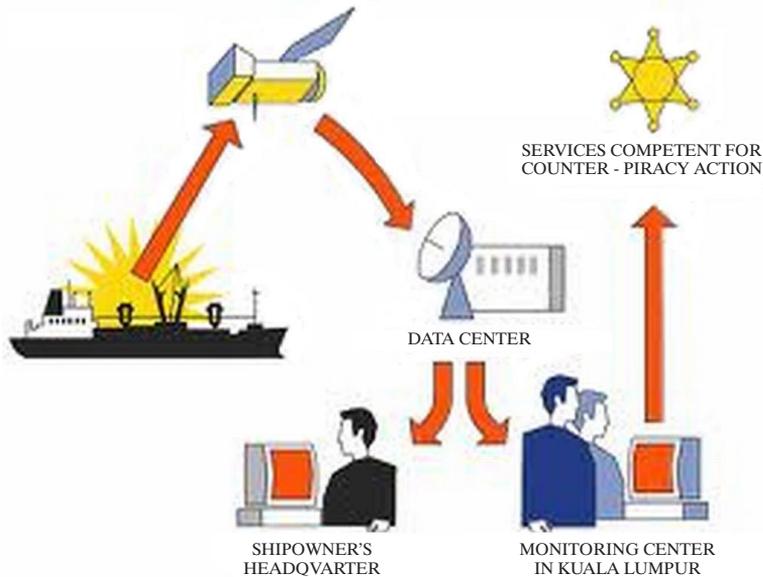
Increasing in the last decade the number of non-legal acts targeting global shipping meant that the International Maritime Organization has taken steps to improve the safety of navigation. First steps in enhancing the safety of ships, as a response of the international community against emerging new threats, made in 1986, the Maritime Safety Committee of the IMO (MSC). The action taken was adopted and published in the MSC circular 443, a set of recommendations that provide clear recommendations to ensure the safety and security of passengers and crews. This circular, however, did not create any legal basis, leaving the solution of the problem (the development of security conditions) at the discretion of individual countries, ports and shipping companions. An important ally (Młynarczyk, 2002, p. 100) in the fight against piracy are widely ship safety systems placed on the equipment of vessels. Another important initiative aimed at raising the level of safety of navigation was the creation, at the express request of the owners monitoring center of maritime piracy and terrorism in Kuala Lumpur (Piracy Center).

It runs from 1 October 1992. It operates by voluntary donations owners and insurance companies. Using the services of the Centre is free for all ships. In this Centre there are all acts of piracy cases registered reported by captains of the attacked ship. On receipt of information about the attack on the ship, the Centre shall immediately forward it to the relevant departments to take appropriate action. Among other things, by the action of the Centre was able to recover kidnapped by pirates, the following ships: Mars Global Anna Sierra, Al-Hufoof and Han Wei. It works round the clock for 365 days a year.

The basic tasks of the Centre are:

- broadcast daily reports in the form of warnings (at 0000 UTC) for acts of piracy and armed attacks on ships in the region, both on the Safety-NET operating in INMARSAT C and by telex;
- collects, analyzes and develops all the information obtained from the shipowners, captains or other sources of non-targeted acts in world shipping;
- the issue of quarterly and annual statistical studies on acts of piracy and armed assaults on ships;
- to conduct close cooperation with national institutions and bodies intended to fight piracy and terrorism (Rokiciński, 2006a, p. 138).

Despite the monitoring activities of the Centre in Kuala Lumpur in 2010 it has been reported until 445 pirate attacks on ships worldwide. Since 2009, this number increased by 10 % and was the highest in six years. Combating them is extremely difficult, because international naval forces do not have the support of any authority in Somalia which is plunged into chaos, and simultaneously is an ideal base for pirates. The country's weak government is too busy fighting with the separatists, to be able to patrol the coast and even prosecute pirates.



Source: Kubiak, 2009, 12.

The final piece of the global offensive to increase safety of navigation undertaken by IMO, is the introduction of a system of Vessel Traffic Service (VTS). VTS systems are intended to improve the safety of navigation. Also play an important role in areas where there is a high likelihood of legislative action on the seas. VTS service may provide the competent authorities. The term competent authority means the authority of local government, port authorities or associations (eg, pilots) that the decision of the State Maritime Administration is responsible, in whole or in part, for the safety of navigation, traffic efficiency and environmental protection in a given basin and make it in the ports and on the tracks and on the waters of the heavy vessels.

In accordance with the recommendations of the international control system for each vessel traffic information service should lead. In addition, it can also implement one or more additional features.

Operating systems based on the principle of the compulsory participation of vessels can be entered only on the internal waters and territorial sea, where they should operate in accordance with applicable laws and regulations of the coastal State and local authorities, such as port, without limiting the right of free movement. Outside territorial waters VTS system can be implemented only by the IMO to match the request of all interested coastal States and operate on the principle of voluntary participation in the system. The language of the system, in the area of action, which may be different flag vessels should be English.

VTS System due to the implemented tasks and structure, has a significant impact on improving safety of navigation in the aspect of extralegal action against vessels.

The terrorist attacks that have taken place in recent years made the European Community that the statement contained in the document “A secure Europe in a Better World-European security strategy”( <http://www.iss.europa.eu>) is the word-to-date, but still insufficient. Further pursuit of European countries to minimize the safety risks in 2004 was the signing of a Declaration on the Suppression of terrorism and the appointment of a European Coordinator “The Fight Against Terrorism”. To the most important issues covered by the Declaration, which directly or indirectly relate to maritime affairs we can include:

- initiative to create a European Security Strategy in the fight against terrorism;
- determine the basis for the creation of the concept of the European Security and Defence in the fight against terrorism;
- the strategic objectives of the EU Action Plan on combating terrorism;

- the security of international transport and ensure effective systems of control (including border control);
- exchange of intelligence information;
- highlight the fact that only a comprehensive and coordinated action in this area is an appropriate form of response to terrorist threats (Rokiciński, 2006a, pp. 145 – 147).

Another very important document is the European Council Framework Decision of 13 June 2002 on combating terrorism (2002/475/JHA), which was concluded among other offenses in the list of terrorist activities. One of the most important points of this list is:

- hijacking public transport entity or seizure of aircraft, ship or transport of goods is treated as a crime.

One should also mention the efforts to minimize migration (including illegal migration) in the territory of the European Union, the first step of European countries restrict the influx of illegal immigrants is the adoption of the Schengen Treaty and the Agreement Implementing the Schengen Treaty. These agreements have established a uniform policy: visa, asylum and a common policy against the abuse of the right of asylum for economic reasons.

The next step was the launch of the Institute for East West program to increase the efficiency of global security. Institute participates in the work of 48 senior representatives, namely the European Commission, the representatives of the people of the European Union, Council of Europe, NATO and the OSCE.

Integrated border management system is part of the EU's border control system. According to the European guidelines, it reaches full operational readiness (including compliance with the provisions of the Schengen Treaty) in the period of 10-15 years.

We can therefore conclude that the state of the European Union in the initiatives taken to minimize the risk of security (including navigation), primarily focused on the legal actions that will create a solid foundation to take other effective decisions. Of course, in parallel with these activities, the EU has the implementation of the ISPS Code, ie the support of the European marine NGOs whose purpose is the safety of navigation and organizes a number of specialized training courses, seminars and conferences in the field of security.

NATO's role in combating illegal activities (terrorism, piracy, illegal immigration, organised crime) has been emphasized during the Prague Summit in 2002. On that summit military concept of counter-terrorism and made the clarification of the necessary forces and means needed to the implementation of the new mission of the armed forces of NATO were developed.

NATO's actions in the field of combating asymmetric threats, in particular terrorism, are very dynamic and large-scale. These include, inter alia:

- The Partnership Action Plan against terrorism;
- The Proliferation Security Initiative;
- Operation Active Endeavour;
- Operation Of Atlanta;
- Early warning system aircraft AWACS Flights;
- International naval forces (Rokiciński, 2006a, p.147).

The Partnership Action Plan against terrorism has lead to initiate the exchange of intelligence between NATO Member States and enhance the effectiveness of civil services in combating potential terrorist attacks as well as underline willingness to support the efforts of the international community in this field.

Operation Active Endeavour is the codename of the NATO operation, carried out in the Mediterranean after the September 11, 2001. Its purpose is to protect civilian ships in the Strait of Gibraltar before the terrorist attacks. The decision to protect the trail was one of the eight points of the operating plan adopted after the attacks of 11 September.

Since the beginning of the mission NATO troops have secured journey of 79 thousand of vessels, of which about 100 have undergone a thorough inspection. 480 ships took advantage of NATO escorts (as of 2006). The operation is carried out by two operating

groups – Standing Naval Force Mediterranean (on Mediterranean Sea) and Standing Naval Force Atlantic (on Atlantic Ocean). Protection of the Mediterranean Sea is carried out mainly by the Spanish, Italian, Turkish and Greek forces. Danish, German, Norwegian and Spanish forces escorted ships through the straits. The operation also involved the Navy of the Republic of Poland. Outside the Member States of NATO in the operation are also involved Ukrainian and Russian forces.

One of the recent successes in the fight against Somali piracy was the catch by the Indian Navy 61 pirates and freeing 13 sailors. This is the biggest success in the history of anti-piracy operations in the Indian Ocean conducted under the aegis of NATO. IMS Tabar was able to locate and attacked mother-ship used by pirates to the attacks on navigation off the coast of Somalia - a large trawler Vega 5 flying under the flag of Mozambique previously has been kidnapped by Somalis in December 2010. Since that time, it served as a floating base of pirates.

Pirate syndicates sell the shares in the planned attacks on vessels, which promotes the growth of the amounts paid ransoms. Ransoms drive this business, so it invests in more capability, whether it bigger boats, and more weapons and better electronics to trace where the ships. The height of the average ransom has risen by five years 36-times, to 5,4 million dollars in 2010. The total value of the ransoms amounted to 238 million dollars, and the total losses caused by the pirate attacks amounted to 12 billion dollars. Only changing the routes of ships for safety reasons has cost 2.4 billion dollars. Analysts believe that 2011 is even worse than 2010.

## **Self defense of vessel. Active and passive defense**

Most of the shipowners companies recommended (and still recommends) in the case of the navigation of the waters threatened by violence attacks to take preventive measures, such as:

- conduct increased observation of to early detection of suspicious individuals;
- run all available emergency resources (sound, light and other) in order to make to that have been detected;
- the use of fire-fighting measures and, for example, signal rockets in order to thwart attackers to boarding.

However, due to the scale of the growing problem of piracy and maritime terrorism, began to appear also new possibility of effective defence the ship by means of invasive defense, which can include both deliberate and rapid maneuvers such as turning passenger ships and large yachts - aimed to ram the attackers small units or the use of shocking devices. Unexpected maneuver aimed to counter pirates gives an advantage to ram a temporary confusion resulting from the temporary enemy - necessary to prepare a defense invasive of the following means:

- The Long Range Acoustic Device (LRAD) in the shape of a satellite dish, to send messages, warnings, and harmful, pain inducing tones over longer distances than normal loudspeakers it can produce sounds 151 dB in close proximity (105 dB at a distance of 300 m). May cause permanent damage to your hearing. The device worked in a pirate attack on a large passenger ship Seabourne Spirit (Kubiak, 2009, pp. 48 -49).
- Microwave Devices, which is an active barrier system (ADS) in the shape of a parabolic antenna with a large diameter (up to 2-3 m) by producing electromagnetic radiation generator able to quickly warm up the surface of the skin to a temperature of 550°C, causing unbearable pain. Its range is about 1000 m The pain stops immediately after turning off the generator-operation of the device does not cause burns.
- Electric fence (Secure Ship), which surrounds the ship on top of the deck. With the help of electrical impulses of 9000 voltage volt device is able to stop the attackers before boarding, usually coupled with an alarm device. The system can be used on all vessels, except tankers carrying flammable loads (Kubiak, 2009, p. 49).

# Anti-piracy Weapons

**Long Range Acoustic Device**  
The only piece of anti-piracy technology that has successfully fought off an organized attack from armed pirates. Has long-range hailing and warning of 500 meters, directed acoustic device designed to communicate with authority and exceptionally high intelligibility in a 15-30 degree beam.

**Boat Trap**  
This "device" involves dropping an entangled net from a helicopter into the path of a pirate's boat. The net then gets entangled in the boat's propeller, bringing it to a safe stop.

**Secure Ship Electric Fence**  
A 9,000 volt, non-lethal wire fence can be installed around the perimeter of a vessel.

**Optical Laser Distractor**  
This non-lethal, moonraker-style laser gun is a visible laser device that has a reversible optical effect on a human target. Rather than blind the approaching pirate, highly directional optical energy is used to disorientate and cause extreme discomfort to its target.

**Active Denial System**  
Uses millimeter-wave electromagnetic energy to stop, deter and turn back an advancing adversary from relatively long range. \$40 million was spent developing the technology over the last decade, so it is not a cheap option.

**Dazzle Gun**  
The laser light used in the weapon temporarily impairs aggressors by illuminating or "dazzling" them, removing their ability to see the laser source.

**Non-Lethal Slippery Foam**  
This "anti-traction material" is a concoction of gelling mud additive, flocculent and water that can turn a ship's deck into an ice rink that will stop any boarding pirate in their tracks.

**Robot Anti-Pirate Boats**  
Armed with a 7.62mm machine gun, the un-manned "Protector" can be remotely controlled from up to ten miles away.

**Fire Hose**  
A classic method of deterring pirates from boarding a vessel is using a high pressure fire hose to take out boarding pirates. The un-manned Under Force 90 Fire Monitor is fully networked and can be controlled from a safe remote location, and comes with pre-programmed defensive spray patterns.

**Superfly – Unmanned Air Vehicle**  
A small, portable and easily launched UAV system allows vessels to take a bird's eye view of the open seas enabling quick information gathering. Reaching speeds of up to 65 knots it gives vessels valuable time to prepare for an attack.

Source: <http://www.piracysuppression.com>

Sometimes on ships there are organized specially reinforced room anti-assault premises, where the crew protects in case of intrusion by intruders on board. This procedure works if the perpetrators are interested in on-board equipment, and the depredations and the seizure of loot coming down from the deck. In the case of measures targeted at durable capture of the vessel, it is totally inefficient.

Currently, increased risk of violence prompts companies (operators) of certain groups of merchant ships to organize groups of protection, intended not only to ensure safety on board, but also to protect and defend the ship in the event of an external threat. Such groups use the facilities and equipment specially constructed and installed on board ship, some are equipped with firearms.

Conservation group, however, operate primarily on passenger ships, ferries and cruise ships. It is hardly surprising that situation - on board of such units is sometimes even a couple of thousand people, in connection with the operation of services of an on-board protection is absolutely necessary. But while previously its activities relate mostly to the passengers and crew members, and in addition to the ship-shore in port (Recalling the action largely on the detectives, and the hotel's security), are now made efforts to have the ability to effectively stand up to external threats.

You should not also believe that, in the case of protection of merchant ship operating formation of acceptance of setting of in pursuit to stop attackers. UNCLOS of 1982 leaves no doubt on this point, stating in article 107 "A seizure on account of piracy may be carried out only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect." (Kubiak, 2009, p. 50).

However there are still positive changes related to security and self-defence maritime vessel.. Still, there are positive changes, security and self-defence ship.

A good example of the changes, the provisions of the SOLAS Convention (Chapter

X, point. 1 and 2). Specifies that all passenger ships, chemical tankers, gas carriers and merchant ships that develop high-speed, and have displacement of more than 500 GRT must be equipped with Ship Security Alert System (SSAS) no later than to mid-2004, while the other units until no later than to June 1, 2006. In accordance with the provisions of the convention system must provide:

- initiate and send the alarm about the threat of ship safety in ship-to-shore to the competent authorities of the coastal State, which will include the following information: the name of the owner, the identification of the vessel and its position as well as the type of risk;
- alarm message only ship-to-coast (other vessels in the vicinity which can not pick up the alarm);
- the transponder carrier, there can be no signs of giving alarm signals;
- an alarm signal to be transmitted automatically until the manual deactivation;
- the system must be able to activate both the bridge and the additional space on the ship.

Whereas the provisions of the ISPS Code are required by calling (employment or appointment) by the shipowner, on every ship, the Ship Security Officer (SSO). In addition, each of the shipowners must hire the Company Security Officer (CSO). Related positions has be created in the ports and terminals handling. In part A of the ISPS Code a provision that should be carried out on each craft to protect the safety assessment is contained. It is based on the determination and identification of the ship's safety systems.

The provisions of the ISPS Code also requires each company to draw up for each vessel Ship Security Plan. This plan must be approved by the relevant authorities. In the Polish case is approved by the Maritime Office. Such a document must be subject to systematic updating (Kubiak, 2009, p. 60).

Very helpful in certification and implementation of ship security systems is also the Polish Register of Ships (PRS). It offers to the shipowners and the development of certification systems for protecting vessels in accordance with the International requirements of the ISPS code. PRS task in this regard is:

- unbiased evaluation and approval of a ship security plan, together with an assessment of the conservation status of the vessel;
- the objective of the audit carried out on board a vessel;
- the issue of the appropriate certificate.

## **Protection of ports and port facilities**

Security of the ports and port facilities, and thus the safety of the transport infrastructure and the supply of raw materials of strategic importance for the proper functioning of the economy, is closely related to the security of the state. Disorders in the work of ports or interruption of transport chains could lead to the country's economic imbalance, which poses a threat to the security in the national and regional levels.

Changes in the international arena, which have in recent times, have resulted in the need for a different look at security issues, both in the national and global levels. The ability to impact on transport systems terrorist threats and their nature, makes the effects of international scope. Favors ease of movement and universal access to the latest technology and resources (chemical or biological) which may constitute a dangerous weapon and potentially a big threat.

As a result of globalization and increasing interdependence and complexity in the world and because of complications in international relations, as well as the rapid development of civilization occurs technical and economic difficulties previously unheard. These problems affect all of humanity for the development of all societies, they have the critical nature of the risks that are important for the future of the international community. Also Polish

security, is increasingly dependent on the effects of regulatory processes with a range of international issues. Likely threat may be a terrorist attack in the economically and strategically important regions of the country, aimed at emergency call and introduce instability (Rokiciński, 2006b, p. 25).

The threat of terrorism on sea areas and in ports, shows port as a very vulnerable to all types of bombings and terrorist attacks (Rokiciński, 2006b, p. 28).

The importance of the port, for its protection and security work in the first place, port services. The authority responsible for safety, in cooperation with the relevant institutions, focuses its activities on the protection of port facilities and vessels, and the response to security threats. In this regard, you can count on the help of the institutions, and funds from the Ministry of Internal Affairs and Ministry of National Defence. Expected effect is to ensure maritime safety.

The Baltic Sea region has so far been regarded as an enclave of peace and security, however, the progressive globalization is accompanied by an increase in violence. This is because even with the involvement of most countries in the region in Iraq and Afghanistan missions, what's already led to the activation of various extremist organizations.

Terrorism is one of the factors threatening the security of the region and must be taken seriously. The complexity of the problem makes it necessary to create clusters of experts representing different fields of knowledge and practitioners who will be able to promote and deepen the knowledge about the risks. This will allow for the creation of the so-called. professional maritime safety system. Although the terrorist attacks aimed at the marine facilities are a small percentage of all terrorist incidents for which there have been in the world, it analyzes published materials relating to terrorism that could soon lead to terrorist attacks on maritime objects. Size casualties, economic damage, political overtones and propaganda carried out before the terrorist attacks on maritime objects in the world have shown that they can be in the hands of terrorists, weapons of very effective and dangerous to maritime safety (Kubiak, 2009, p. 64).

Economy and maritime communication form together one of the basic pillars of the global economy. By sea is carried out most of the international trade and satisfy more than half of the demand for oil in Western Europe. That is why the terrorist attacks on maritime facilities provide the most desired by terrorists effects. The safety of sea transport, handling and storage of materials is extremely important problem, solved by a number of specialist teams and departments of the state and so ship and port facilities.

In assessing the global impact forms of terrorism with regard to Poland, as the most likely targets of a terrorist attack in the event of the coast and coastal urban area is, first and foremost: seaports, state local government and administration objects and and large concentrations of people (shopping centers, stations, aisles, etc.)

In the case of the Polish coast one must also note that in the big cities (Gdańsk, Gdynia, Szczecin) ports and shipyards form a single urban area with residential buildings and services what is the perfect target.

Among the objects listed the possible impact of the terrorist to be the easiest to use and the impact of terrorism is considered to be a seaport. Its area can be used both as a target of the attack and where the deployment of which is to prepare the base for the attack on the selected unit. The nature and functioning of the ports excludes the possibility of passing full control of their cargo area without completely paralyzed the functioning of the port.

In the case of Polish ports on their penetration threat of terrorist impact area is relatively easy due to the nature and volume of the cargo. Turnover of goods of the Polish ports are about 59 million tonnes in 2010.

A consequence of the increase in trade in goods is to increase the number of calls to the ports. Compared to 2009, the number of vessels calling at ports in Polish has more than tripled. The biggest increase was reported in Świnoujście. A negative feature of this process is the decrease in the capacity of ships arriving in Polish ports, which causes a significant

increase and movement of vessels in port.

Scope of goods (coal, ore, grain, wood, general cargo) and number and capacity of calling units largely provides also the possibility of its use for terrorist activities. For all these groups of goods, there is practically to accurately inspect the goods passing through the ports for placing explosives in them. Such steps would involve - in addition to personnel costs with the need to reduce the rate of handling, which de facto paralyze the port work (Kubiak, 2005, p. 77).

If the existing character of the cargo as easy entry into the port of the terrorist impact, it is probable to expand programs to increase ports significantly their vulnerability to the threat of a terrorist attack.

As a result of the development plans of the Polish ports of substantial modification is both kind of transshipped cargo groups, as well as the volume of traffic. Till 2000, basically the primary load were widely understood bulk cargo. While development plans implemented in the ports of Gdańsk and Gdynia are moving in the direction of the containerisation and specialization in the carriage of dangerous goods (liquid fuels, applied chemistry, etc.).

Projected development plans and started investing in largely determine the level of safety will be both the same ports, as well as urban areas. For example, investment in the North Port will allow the adoption of 150,000 units. DWT, and submerged 15.0 m. in practice, this will allow for its use, as for the largest cargo handling port on the Baltic Sea oil tankers (Mickiewicz, 2003, pp. 34 -41).

Adopted by the Polish ports development directions will ensure their dynamic growth, but also radically enhance the attractiveness of the port infrastructure, as a possible object of a terrorist attack, the more that their course will be expanded terminals:

- liquid chemical products,
- ores,
- fodder and grain,
- containers-ferry.

Presented the trend results in a significant increase in the number of calls and adapted to the dynamics of the growth of trade in goods, port and warehouse space. The biggest increase will be serviceable units object or element of the terrorist impact. This threat can be also increased due to the significant increase in the number of container and passenger transport as a relatively simple becomes penetration on board a passenger vessel (cruise ship) terrorist groups, planning activities in the area of the Republic of Poland.

Dynamic growth in passenger traffic, and above all to increase the turnover and area of ports will automatically affect into a significant increase in the movement of people in these objects. We must also remember that the movement of people and vehicles in the ports is difficult for effective accounting and control.

A characteristic feature of Polish ports, as I mentioned earlier, is their adherence to urban agglomerations. In addition, implemented plans to expand port infrastructure will further approximate the ports to urban areas, and the creation of a single area. Now most of the port facilities, which may become the subject of the impact of terrorist groups or special, is in direct communication with the municipal buildings. In some cases, we may, therefore, speak of a single combined urban and urban port city (Kubiak, 2005, p. 83). As a potential target for a terrorist attack takes place separate Gdańsk Refinery, which together with the with North Port creates a complex of strategic importance.

In assessing the possible impact of terrorism on the objects and the Gdańsk Refinery equipment, we need to remember that a possible attack does not guarantee a large number of victims. It will allow only temporary for reference and a spectacular success in the media, it will paralyze works of the company and greatly hinder traffic on the A-7 city (Kubiak, 2005, p. 83).

Presented above the specificity of urban development can both - allows the current observation of selected objects and carry out terrorist actions and the unit cycles carried out guerrilla way. In conjunction with a large demographic potential and the greater

coastal-living in urban areas, environments anonymity by also allows perpetrators to obtain relatively safe premises which constitute the base of activities and hide. A significant number of the population also reduces the probability of detecting preparations for action during routine police, city traffic is for the perpetrators while masking movement to the area of operations and to escape after the action. In addition, the high population density combined with operating in the urban centres of local newspapers, radio stations and TV impedes or prevents the secret information about terrorist actions, and thus makes it easier for the perpetrators of psychological States that propaganda activities. In considering possible scenarios for terrorist action, we must consider that the position of the important port facilities is a factor that facilitates the carrying out of a terrorist action. Due to the sheer size of the port areas, their functioning within the body and a large number of the population moving around port areas both inside and reckon first with the use of explosives by potential terrorists. We can also provide for the possibility of placing in selected buildings technical equipment used to indicate targets for precision measures destruction, allowing for the effective impact of the fire on the selected objects.

The Baltic Sea Basin is not free from the threat of terrorist activities, it should be set up so that the impact can be imposed on maritime transport. Commercial Shipping and maritime trade plays a key role in the functioning of the global economy, as well as being extremely vulnerable to terrorist attacks, and therefore from the point of view of many organizations and terrorist groups is a highly attractive area of activity.

In order to improve the safety of navigation in December 2002 was reached an agreement so-called International Convention SOLAS for the safety of life at sea. ISPS Code (International Code for Security of Ships and Port Facility Security) was introduced in July 2004.

Very important are also all kinds of preventive measures applied by the authorities of a port facility or vessel owner. Equally important cause is a proper training of the staff responsible for an organization and a protection of these objects (Szubrycht, 2009, 100).

Seaports play an additional and important role in the economy of each country. They make a transport node linking terrestrial communication systems of the freight shipping routes. Among other things, because they may be a particularly vulnerable place for all kinds of activities of criminal groups. A potential attack on the deployed elements of infrastructure in ports, such as: fuel tanks, gas reservoirs, ammonia tanks, petroleum handling equipment, storage areas, passenger terminals and the other would cause huge financial losses, as well as ultimately penalize the functioning of the whole region and the state.

Implementation of a protection to ensure the safety of seaports is done by the use of appropriate measures in the field of port security policies by setting common standards for continuous a sufficient level of safety. It is necessary to determine a nerve center which is responsible for the security of the port to ensure coordination in elaborating, updating and monitoring risks, assessments and port security plans.

Analyzing the position of Polish ports can be concluded that a significant threat for terrorist attacks may be causing the blockage or causing an environmental disaster. This can result in a economic perturbation affecting maritime communications, the functioning of the population in an adjacent urban areas and breaks at seaports, which in turn has a significant impact on safety, maritime security of the country (Szubrycht, 2009, 120).

Incidents violate a safety, may cause a crisis, including port, city, county or even country. Prevention and control of risks is a common task for economic subjects, shipowners, maritime administration, local authorities, including crisis management structures.

Seaports in Poland (Szczecin - Świnoujście and Gdańsk and Gdynia) occupy large areas and are related to the environment. Combine a trade and a flow of goods, often dangerous goods and the carriage of passengers by seaborne with land transport. The location in the vicinity of large cities, sometimes common infrastructure or other impacts, result in high

sensitivity to the effects of security breaches. Therefore, terrorist attacks can cause the collapse of the freight transport system necessary for the safe operation of the state and a large loss of property and the number of human victims. Relatively easier availability of port facilities and vessels compared with airports and airplanes, causes that it may be targets for terrorists.

In the process of researching an issue of maritime security of the state highlights threats that should be taken into account in the study of ports and ships security problems. These are natural events (storms, floods, epidemics) and the resulting from economic activity (fires on ships, strokes fuel or other dangerous materials, contamination by toxic industrial agents), as well as remnants of war (unexploded ordnance, mines, chemical warfare agents dumped in the Baltic Sea). It seems that the danger of using this threat by potential terrorists is possible, but it is unlikely. First of all, in order to take advantage of these resources, you should know the exact location (and most of all were dumped at great depths) and have the means to a unseal of their packaging (and in some cases even the hulls of ships, as they were drowned together with the load).

The positions of Polish seaports in terms of the likely threats can be classified as high risk of a terrorist attack or block causing an environmental disaster. Threats include ports and waters of coastal port, adjacent areas and urban centers. The most dangerous of primarily working ports is each crisis disturbance that affects the transport system and the domestic and international maritime security breach state. Safe ports provide reassurance not only to ships and other modes of transport, but also the population of cities and regions (Młynarczyk, 2002, 110).

Seaports are areas usually located at the interface between land and sea, equipped with devices that allow vessels to stop, loading and unloading of goods and passengers (Góralczyk, Rawicki, 2003, 50). The location of seaports and their role makes that they take on a special significance for the national economy of the sea. Ports are a point of interconnection between a waterway transport and other modes of transport (cartage, rail, transmission) so as a special transport node are areas vulnerable to terrorist attacks from the sea and land. The target may be as port facilities and ships standing in pools, in outer ports (farthest inner part of the water surface of a port), or in the waters adjacent to a roadstead. Ports due to their characteristics, functions and purpose are vital to the national economy, what clearly underline the international rules and projects for their protection. Attack on port infrastructure may cause their paralysis, which in turn leads to disruption of the natural process of a flow of goods in relative sea-shore and vice versa. The purpose of attacks can also be important port facilities such as industrial plants, commercial buildings, port warehouses, grain, container terminals, workshops, wharfs and transport infrastructure, e.g. calling at the port, road and rail networks, power systems, etc.

Ports are a vital link in the entire transport chain linking land and maritime trade, as well as land and sea passenger traffic. They often converge routing of dangerous goods, and there are plants in the chemical and petrochemical industries. In addition, ports and shipyards and industrial plants form a single urban area with residential and service buildings. Therefore, all terrorist attacks against ports can seriously disrupt the operation of not only the transport system, but also a direct cause significant harm to people in the port and people living around the port. An area of the port can be used both as an attack target or as a base to prepare an attack on chosen crafts. From few years, more and more attention is paid to improving safety of maritime ports. As the facilities located at the junction of the two worlds of transport and have a huge potential in terms of trade in goods (number of tonnes of cargo handled and diversity), contributing to the development of the economy, the ability to access the various modes of transport, the number of employees, used cargo handling equipment and handling, modern waterfront with container terminals and cargo handling and warehousing base, developed intra-port transportation, developed infrastructure: road and rail from the land and the water from the wharf, the number of

business entities and the area that have ports. All this means that they are a set of highly sensitive components maritime transport (Szubrycht, 2009, 115).

Since the seaport is a complex transport node, in which meeting place for various modes of transport-ships, inland waterways, trains, cars and pipelines. At the port area follows transshipment between maritime transport and other modes of transport. Crowded loads with the use of sophisticated equipment have different physicochemical properties. Therefore, a major concern is their susceptibility to different threats (fire, explosion or spill). Increasing in recent years, the number of tones of dangerous materials transported by sea makes that damages of handling facilities failure leading to damage to the ship can be fatal if they are related to the tanker or chemical tanker, as in the vicinity of ports there are large sections of the population.

Initiating the International Maritime Organization (IMO), changes in maritime conventions and the creation of legislation that are likely to have an impact on the containment and prevention of all unlawful activities implicated in the safety and security of shipping and port operations were fully justified. In assessing the potential threat of terrorist attacks, which aim would be a ship or port, provides the likely effects identified as significant in the loss of human life, as deadly contamination of the environment, as well as serious commercial consequences that could even lead to economic imbalances in some countries. There is especially important for Poland to maintain continuity of ports, mainly due to the supply of energy, as their absence (as scheduled) can affect the security of the state. EU to protect European ships and ports has also introduced a number of laws that operate in parallel with the regulation of international law. For that reason so important are the rules and relationships occur in this area of the law, as are closely related to changes in the assessment of security risks and therefore still needed to study the link of the changes to the functioning of the system of maritime security of the state (Szubrycht, 2009, 120). One good example is the construction of the Polish National Maritime Security System in conjunction with other operational services.

Maritime safety has international nature, due to the fact that the physical environment of the seas and oceans creates a universal ocean, where all the processes physical, chemical and biological properties depend on each other and identical or very similar, this also applies to the spread of contamination and pollution of the marine environment. Human activities at sea, especially sailing and similar to the types of activities are transnational. In addition, maritime security, in particular necessary conditions to achieve it, can be provided only if the activities of the service, all the maritime states of the world are coordinated and implemented in accordance with the uniform world-wide regulatory framework and the requirements and standards for the safety sea.

Maritime security is a state-wide national security, it is the security of the institutions and bodies of the state, i.e., all the elements of the state (physical and mental) which define the maritime character of the state.

Problems relating to security are becoming every year more difficult to solve. This is even with the stable growth of maritime transport in the transport of dangerous goods and the growing threat of terrorist groups. There are many institutions in the Polish maritime areas to which the duty to provide security, including maritime authorities, the Polish Navy, Border Guard, Customs Service and Maritime Search and Rescue Service (SAR). The research shows that maritime security is mainly dependent on the state of the managing bodies, because it is the management port together with Maritime Offices are involved in the implementation of the regulations on the safety of ports and port facilities.

Taking actions which seek to recognize the dangers of port operations and functioning of access to ports and deal with these threats by eliminating the hazard-prone situation is of great importance to maritime safety and security of the state. Just as important is to ensure the supervision of abiding the current rules and to adapt national legislation to international regulations. Creating the right conditions for the protection of port facilities,

ships and people from the consequences of terrorist acts and other acts of lawlessness and to ensure the proper development and maintenance of infrastructure, access to ports and port facilities in accordance with the standards and safeguard the safety of all users is closely related to ensuring maritime security of the state (Szubrycht, 2009, 130).

Analyzing issues related to safety and security of ports in maritime safety system state highlights the role of these ports in the transport sector and their impact on the economy of the country. Monitoring and protection of objects of which depends things i. a. steady stream of raw materials needed for energy security should be one of the most common tasks of port security and maritime forces. An example of co-operation can be secured by the Navy (Hydrographic Office MW) in terms of the navigation a safety of navigation, including calling at ports. An effective threat prevention requires a preparation of appropriate manpower and resources. In each country there are obligatory protected areas, facilities and equipment essential to the defense or economic security of the state, including seaports, pipelines, power lines and facilities using or storing chemical materials or energy. Strive to organize existing protection services such efficient, properly equipped and armed to be able to ensure security within protected objects. Their tasks should include checking the movement of people and vehicles (including freight), verification of identity papers, retention and eventual transfer to the competent authorities (e.g. police) unauthorized persons trying to enter the protected area, observation of the protected object, the isolation of places imminent danger and the organization cooperating with other services (e.g., fire, energy services). In the case of ports must be properly secured objects from the body of water. A video monitoring should be completed by barriers of a control system approach and an appropriate water-borne measures to enable control. Swamped elements should be filmed and available for a periodic inspection.

A cooperation between public authorities and security services should take place without hindrances in working mode. State agencies and public authorities involved in gathering information should pass a store of knowledge about the potential threat. To protect an object, In the case of a serious threat to protect an object can be involved police and even the armed forces under the applicable law. In the event of an attack at sea ports from the seaside and found in them the facilities there is necessary to use the forces of the Navy and Marine units Border Guard.

It is important to create an organization that will provide accurate and harmonious co-operation of all government departments and local government. Each services and institutions besides carrying out their statutory functions would be required to pass information about appearing threats to a unit which is coordinating protective activities as a part of an uniform system.

Situations such as technical and natural disasters, emergency conditions and threats associated with the terrorist attacks required specific measures. The effectiveness of the implementation of developed plans depends on the knowledge and skills of individuals prepared to carry out their tasks in different situations. The involvement of different forces, resources, people and institutions to counter threats, it comes from a size, specificity of object as well as their significance for national security.

In Poland, there are three Maritime Offices in Gdynia, Słupsk and Szczecin, each of which its director is responsible for a part of the Polish coast.

## **International requirements for port security against terrorist attacks (ISPS Code)**

International Ship and Port Facility Security Code (ISPS) is at the core of all projects related to the provision of effective supervision on board ships and in port facilities such as: port facilities used in international shipping, passenger vessels, all other vessels of over

500 tons carrying cruises in the inland internationally. The basis of the ISPS Code is the assumption that the security measures are proportionate to the level of threat that threatens to ships or port facilities. It also should be considered that these threats are variable in time.

In order to safeguard actions taken at the port distinguishes three levels of protection, which are in force in the U.S. adaptation of the principles of MARSEC (Maritime Security).

Levels of protection adopted at the IMO give a hint for a existing degree of threat at the same time recommend undertaking appropriate measures on land and on board ships. Accepted levels of threat include:

- level 1 - minimum level of threat; taking the normal means of protection is sufficient; IMO adopted that the lowest level should be continuously kept on ships and at ports

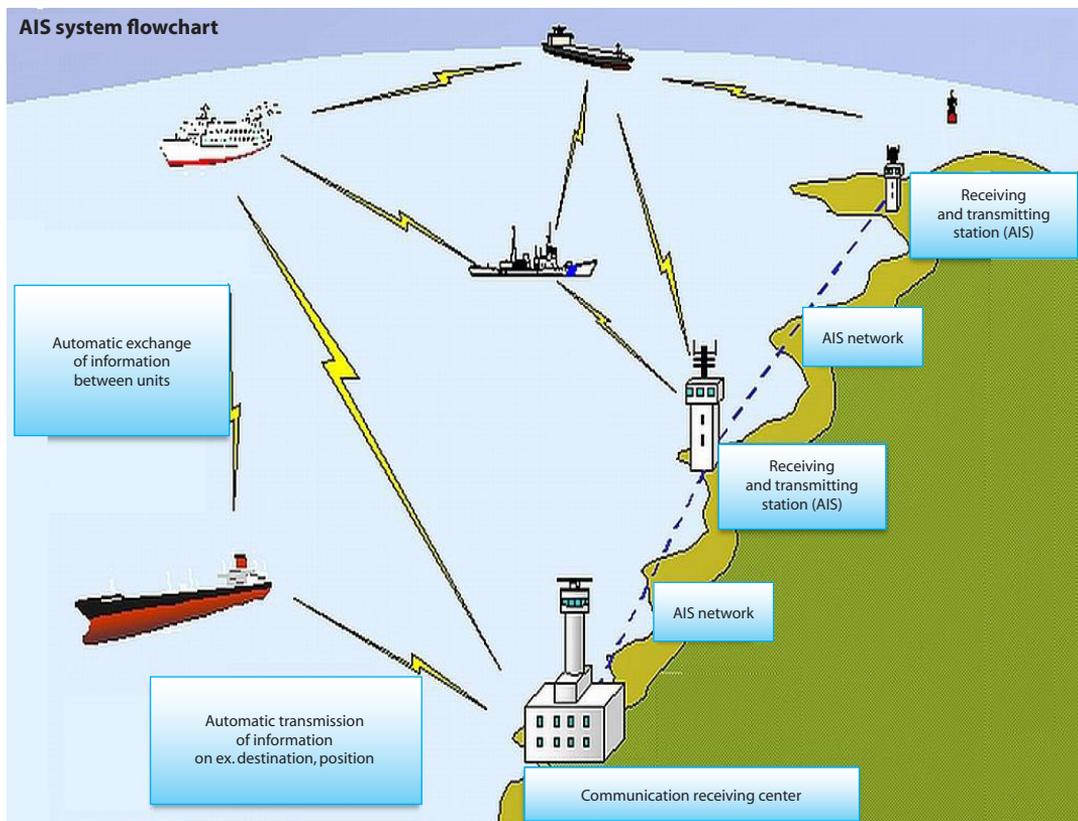
- level 2 - level of threat; it is introduced if there is a heightened threat of offending an incident safety of the ship or port infrastructure and to ensure an adequate level of safety it is necessary to take additional security measures previously developed;

- level 3 - high risk; it means that it is a high possibility of a threat to the safety; it is placed in situations when a threat affecting the security is very likely in the near term even in the case of it is impossible to determine the potential threat of an attack object; in the case of an introduction of this level it is necessary to intensify port protection but this threat level should be maintained for a longer period of time (Szubrycht, 2009, 215).

In accordance with the resolutions of the Code every shipping company must additionally designate their Company Security Officer (CSO), which is responsible for the proper preparation of Security Plans subordinated to him ships. They must be approved by the relevant maritime authorities. He must look after that subordinated units had a Security Plans ships as well as were systematically modified and submitted to another approval in the event of new circumstances. CSO is also responsible for conducting periodic assessments of security protection for ships (SSA). Besides the scope of its responsibilities is to oversee the introduction of appropriate levels of protection and ensuring effective communication in ship-to-port security officer while the ship is at a port.

A protection of ports and port facilities subject to the verifications of compliance with resolutions of the Act and the relevant international rules. Verifications ports are conducted at least once every five years by a team appointed by the Minister of Maritime Affairs. The port facilities are inspected at least once a year by teams appointed for this purpose by the director of the competent maritime authority. These teams can also make interim audits in the period between verifications.-The resolutions contained in SOLAS Convention in chapter X which requires from every owners need to implement on vessels AIS transponders - an identification number and an alarm system.

Automatic Identification Systems is a new solution designed to increase the safety of navigation, and thus reduce the amount of collisions at sea. Equipment of vessels belonging to the PSC in AIS transponders costs about \$ 2 million. These expenditures do not include the costs of both devices are installed outside the vessels, namely the shore (base stations and relay), in the headquarters of the VTS and SAR aircraft, as well as the cost of audits, inspections in ports and on ships.



Source: <http://www.uscg.mil/acquisition/nais/-2010/02/10>.

A maritime violence has become a lighthouse at the end of the Cold War, one of the major problems currently besetting the international community. It caused the countries leading maritime interests have been forced to maintain naval units at a considerable distance from their native shores. This generates huge costs. Besides traditional maritime powers in the marine transportation routes there are also ships of new powers such as India and China and Japan.

Unfortunately, it does not appear that the suppression or even reduce the scale of violence naval forces was feasible only by navies. This is not because of an independent phenomenon but only one of the side effects of a more complex process. A maritime violence is closely linked with these conflicts. Additionally, it is stimulated by globalization, resulting in the acceleration of global stratification, as well as the dynamism trade in goods, as a result there is an increase in the breadth of transport streams natural playing field for both pirates and maritime terrorists. There can be no question of an effective eradication of maritime violence without addressing the issues that make up the fact that the current international reality, many experts called the state of global concern.



# **X**

## **Security of the Republic of Poland as a constituent of the common EU security**



*„The future of Poland depends on you (...), You cannot own Freedom, Freedom has to be being achieved continuously, (...) It is easier to regain Freedom than to keep it (...)  
John Paul II Homily delivered during his second pilgrimage to Poland, Gdańsk (1987)*

Security. „The political and legal system whose aim is to maintain international peace through establishing a ban on aggression and a peaceful solution of international disputes is based on a rule of common self-Defense. The system can be universal or regional in its character (i.e. it encompasses all the states in the region, including potential aggressors)” (Petrozolin – Skowrońska, 1998)

Europe consists of over forty sovereign and independent states. They have their own social and economic systems, own international and security policy, established doctrines of Defense and their own military potential. With this potential they are ready to defend their statehood against any kind of threat. The choice of a method to secure a state’s safety is its own choice only and is morally justified. In the days of various threats to states’ security, it is obvious that the choice of individual Defense has no chance to succeed. Therefore, a participation in political and Defense alliances based on the rule of mutual respect of the states entering into the composition of the alliance, according to the international law, seems evident. Security and international policy of Member States are fundamental issues. Yet, in the matter of Defense, the rule of unanimity in taking decisions must be obeyed. Before entering the European Union Poland was forced to undertake a lot of adjustment activities. They were sometimes very unpopular, aiming to provide interoperability and compatibility, not only in the sphere of security but also in the area of politics and economics. The fulfillment of the stipulations of the National Programme of preparation for European Union Membership (NPPC) resulted in Poland’s becoming a full Member State of the European Union on the 1st of May 2004, and also a respected partner in NATO and other organizations with international significance. This fact requires facing great challenges while building a security strategy at the turn of the 21st century. The challenges are the following:

1. To avoid repeating the errors committed in the past security policy, especially before 1939.
2. To ensure efficient Defense of the national interests of Poland, in its own policies and within NATO and the EU.
3. To liquidate the effects of the civilization backwardness in comparison to Western European countries and strengthening the national force adequate to the requirements of Poland’s geopolitical position.
4. To take a comprehensive advantage of the chances given by the membership in NATO and the EU.
5. To participate in creating and strengthening international security with the aim to anticipate external threats for national security.
6. To achieve a stable, credible and advantageous position for Polish national interests, in NATO and the EU.

A primary and strategic objective of the Republic of Poland is to ensure beneficial and safe conditions for the realization of national interests. It can be achieved by eliminating external and internal threats, reducing risks and by the adequate assessment of undertaken challenges, and the efficient use of emerging chances.

In the security process of the European Union we deal with a territorial security and the ability of the nations and their governments and institutions acting on their behalf, to manage this process effectively and, first of all, in a democratic way. The geopolitical position does not determine the concept of security. It is determined by the period since the occurrence of a specific situation to a decision taken being a reaction to this situation. With a definition formulated in such way, we can operate with a concept of functional security without any special justification. This concept comprises both the external and the internal aspects of crisis management and Member States’ principle of partnership and care about the security within the EU (Słomczyńska, 2007, 245). The lack of common idea may cause a disability to

react effectively on the occurrence of the conditions endangering the important interests of the allies or of one of them. Peace and security are very much determined by military potential and other instruments available (both the political, the economical and the technological ones). The potential of military abilities is a crucial and sufficient condition for being secure. The military potential should be used in the last resort, however. It should be employed when all the other available means have been used (Biscop, 2003, 245).

On the 12th of December 2003 the European Union launched The European Security Strategy entitled: „A Secure Europe in A Better World”. It amounted to the creation of the first strategic concept in the field of the EU security. This document is unique and compatible with other policies within the EU which is a creator of international relations built on effective multilateralism. In the first part of the European Security Strategy we read that Europe has never before been so prosperous, so secure nor so free. The violence from the beginning of the 20th century gave way to peace and stability for the scale that has never been known before. The creation of the European Union has played an important role in this process. The European countries claim that diplomatic steps are the only acceptable way of solving disputes. Over this period, we have seen evolutionary changes when the rule of law and democracy replaced authoritarian regimes. Growing interdependence of the states creates international “rules of the game” that cannot be ignored by any country. There are common interests such as sovereignty, territorial integrity, economic development, protection of citizens’ lives, state’s image and its security (Carlo, 2003, 100 – 102). The national interests can be classified in the following way (Carlo, 2003, 105-109):

- depending on the following values: the economic, the territorial, the political and the ideological ones, referring to welfare, security and a vision of history. This classification refers actually to the role that a state wants to play on international scene;
- depending on priorities: more or less important, constant or changing, general or particular ones;
- relating to other states’ interests: complimentary or contradictory ones. This aspect should be taken into account while planning foreign policy and taking decisions about war and peace, negotiating alliances and concluding agreements of international cooperation. The alliances determine interests, e.g. a common interest wins with a particular interest of a single country. Such a country has voluntarily to give up its interest that cannot be reconciled with the interests of all the allies. It must be noted that giving up of the interest has to be voluntary and it cannot violate a national interest of this country. Therefore, multilateralism and alliances can exist only when they reflect real priorities of national interests;
- national interests can be divided into short and long term ones: the time factor is central both in policies (for a short term) and in strategies (for a longer term);
- national interests can be indirect: they may be instruments to achieve a totally different goal;
- interests may be historical: historical and natural rights, e.g. the Argentina’s right to the Falklands, the Serbia’s to Kosovo.

Pondering over national interests takes place in the periods of change as a result of disappearance of a bipolar world, its rules and axioms, like the unification of Germany that has changed profoundly the political and the economic situation in Europe. Moreover, considering national interests may influence the rationality of national decisions consistent with the fundamental world tendencies. National interests are a function of a distance and are crucial in the sphere of security. They are less important as it comes to economy (Carlo, 2003, 109). According to Kenneth Boulding, (Kenneth Boulding, 2003, 117) the degree of power’s weakening with distance depends on the level considered (the political, the economical and the military one). It also depends on a technology available for a particular country at that moment. Such a theory is decisive even if it has only a heuristic not a quantitative meaning. It is noticeable in the military operations conducted at a long

distance – the costs of transport increase and the operational and the logistic efficiency decreases. While undertaking different forms of operations, caution should be kept. It should also be supported with both a profound university and military knowledge, and an operational instinct (Carlo, 2003, 22). The European Union should be treated as a model of international relations worth following by the states from other regions which are in the process of a system transformation. The European Union, along with Poland, became a more open region, where the security ties are joined indissolubly. Yet, Europe is still not free from threats. The most important ones are:

- terrorism, which is unpredictable. It is also one of the most brutal forms of violence that shakes international community today. It spreads hatred, death and a desire of revenge (Catechism of Catholic Church, 2005, 337). Usually, places of common life are objects of terrorist attacks. Terrorism attacks from behind the corner. It acts with no respect to international rules and, in many cases, it is perceived as a new way of conducting war (John Paul II, 2002, 337). Terrorism must be assertively condemned. It expresses contempt for human life. Terrorist acts strike deeply at human dignity and they insult the whole mankind. There exists therefore a right to defend oneself against terrorism (John Paul II, 2002, 337). Europe is both a target and a base of terrorism and, therefore, common European acts are necessary (Słomczyńska, 2007, 249);

- proliferation of Weapons of Mass Destruction that may become the greatest problem for Europe. It has to be claimed that we enter a new dangerous period that may result in the acceleration of the arms race (Słomczyńska, 2007, 249);

- regional conflicts may lead to extremisms and create conditions for organized crime. The lack of stability and security in the region may enhance willingness to possess Weapons of Mass Destruction (Słomczyńska, 2007, 249);

- deepening process of the states' breakdowns, bad governance of a state, corruption and abuse of power, weakness of a state as an institution, a lack of responsibility for taking decisions and internal conflicts lead to a progressive disintegration of a state that is reflected in the lack of stability in a region (Słomczyńska, 2007, 249);

- organized crime: trafficking in drugs, women and illegal immigrants and proliferation of rifle armament are in the hands of organized crime gangs. Such a form of delinquent activity is characteristic of weak and falling states. Organized crime impairs the rules of law and social order. It may dominate a state (Słomczyńska, 2007, 249).

If we survey the European challenges and threats, including the Polish ones, the following conclusions may be formulated (Słomczyńska, 2007, 250).

- the strategy presents a holistic collection of challenges and threats, both civilian and military ones, state and transnational ones,

- the authors of the European Security Strategy expose particular kinds of threats and possibilities of their potential occurrence without determining their geographical scope. It may point to Europe's becoming an important factor in the sphere of security:

- joint occurrence of several kinds of threats is possible and the most dangerous,

- the threats are presented in a perspective wider than the European Union solely,

- the introverted approach to the European Union's security has been replaced by the interest in other directions, especially the external ones,

- kinds of challenges and threats are expressed in such a flexible and broad way that they can be easily identified (Słomczyńska, 2007, 251).

## **The objectives of the European Union in the field of security and defense**

The world and Europe function in the environment that gives a chance to foresee the development of events. It creates, however, greater and greater threats that cannot be

foreseen. Therefore, in the face of the lack of a clear national, cultural and territory unity, we must act globally and think locally. „Not always have the states proper means at their disposal, to be able to defend themselves properly: hence the importance and necessity of existence of international and regional organizations that would be able to cooperate in tackling conflicts and supporting peace, establishing relations based on mutual trust, so that waging war would be a nonsense.” (John XXIII, 1963, 288 – 289). A common Defense system should be built in a very sustainable manner and it requires taking into account all the determinants. Peace is not an equivalent to the „formal” lack of war. It also reflects a force order and a hierarchy between states. Therefore, the three notions require analysis (Carlo, 2007, 187 – 190):

- strategic stability denotes the superiority of powers maintaining „status quo”. It is a political notion, thus it is relative and not absolute;
- crisis management that has two meanings: the first one is a defensive one. It implies maintaining „status quo” and it is understood in the West in such a broad way. In a defensive crisis management the processes of a vertical and a horizontal deescalation are being launched. They are coherent with the use of diplomatic, economical and military means, so all the available means which are to stifle the unruly activities; the offensive crisis management is identified with „brinkmanship’ (balancing on the verge of the war waged against the other party, regarded as enemy), e.g. the politics of the administration of Dwight Eisenhower, the President of the United States, against USSR. Crisis management can also be used by a state to carry out favourable changes. This presumption may bring success when there is an „escalation dominance”, i.e. the material ability and will to employ the whole political and military potential;
- obligation of a „humanitarian interference”, i.e., the right of interference based on Chapter VII of The Charter of the United Nations, granting to the Security Council the right to surgical interventions in a given region, with the use of a military force, to face non-military threats (Carlo, 2007, 187 – 190-194).

The use of a military force in many cases has been subordinate not only to counteracting non-military threats, but also to economical aims that are subordinate to the global market requirements whose aim is to increase the GDP. M. Kalder and A. Salmon claim that the operations conducted by the European Union in order to extort the obedience to law, should refer to the humanitarian security and in a lesser degree to the Defense of a territory. The military operations of the European Union should comply with the appropriate rules:

- primacy of human rights;
- legality, i.e. observing the international law and, to a certain degree, the domestic law of a state, if it does not infringe the stipulations of the international law;
- goal - stability, not winning;
- clarity of political superiority. The armed forces are to support the legal civil authorities maintaining the synergy of different dimensions of an operation – a military, an economical and a legal one;
- necessity of a multilevel coordination between a civil, a military and a police component, and of other appropriate services, ensuring the internal order;
- organization of effective intelligence services and gaining information (Słomczyńska, 2007, 258).

The society structures define the ability to mobilize not only material resources, but also the human ones. They determine a strategic or a tactic choice and a political utility of a military force (Carlo, 2007, 127 – 128). The European Security Strategy assumes that with the potential of its 27 members and 160 billion budget it may conduct several operations at the same time, both the military and the civil ones. J. Lindley – Frencz and F. Algieri notice in their deliberations that the European Union, as the important organization in the field of the world security, should have a credible Defense component at its disposal, according to the conception of assertive multilateralism that complies with a broader responsibility of the European Union for the world security (Słomczyńska, 2007, 258). To face these

challenges, the European Union has to be equipped with an adequate military potential with appropriate operational abilities. In comparison to the United States, the Defense budget of the European Union is three times as big but its operational abilities are one third of those of the US. The Member States of the European Union should maintain their contributions in a clear and precise manner, irrespective of the kind (low or high intensity) of conducted operations (Słomczyńska, 2007, 258).

Therefore, the one that is adept in a warfare wins, relying not on people but on the strategic use of forces. They can select people and use forces in accordance with a chosen strategy (Sun Tzu, Sun Pin, 2008, 85). In this context, a particular attention should be paid to the quality of the relations between the European Union, and its Defense activity on the international scene, and NATO. On the 16<sup>th</sup> of December 2002, the settlements in this area were adopted by the EU and NATO in the common declaration. The strategic partnership of both organizations was later confirmed in the package „Berlin +”. It is based on the following rules:

- partnership – in the crisis activities the organizations support each other,
- mutual consultations, cooperation and dialogue,
- equality and mutual respect for the decisions taken and for the interests of the European Union and NATO,
- observance of the provisions of the Charter of the United Nations which is a fundament of the Treaty on European Union and the Washington Treaty. It is to provide one of the necessary conditions for the stability of the Euro-Atlantic Security Area, based on the commitments to tackle disputes in a peaceful way,
- mutual cooperation and development of both organizations in the face of the requirements of military capabilities.

In order to provide the abovementioned objectives, the European Union and NATO made the following commitments:

- the European Union will provide the Member States of NATO that are not members of the EU with the possibility to enter the system of the European Security and Defense Policy (ESDP),
- NATO will support ESDP according to the stipulations of the Washington summit, and will provide the access to the planning potential of NATO,
- both organizations accept the common commitment to support each other in the field of military capabilities and mutual openness,
- to achieve a situation in which all the Member States of the European Union will be the members of NATO, at the same time and the European identity in area of security and Defense (ESDI) will comply within NATO with ESDP carried out by the European Union.

The present situation is more a source of some risks and a reason to express more care about security than it is a source of a greater security (Gryz, 2008, 133 – 135).

Developing ESDI within NATO and creating ESDP within the European Union constitute means to the development of the European security. To this end the Common Foreign and Security Policy has been established (CFSP), which along with ESDP will be gradually institutionalized and operationalized in order to provide effective actions in the area of security and Defense. The main objectives of CFSP are the following:

- protection of common values, important interests and the independence of the European Union,
- strengthening the security of the European Union and its members with the use of all available means,
- ensuring peace and strengthening international security,
- fostering broad international cooperation,
- developing and consolidating democracy and the rule of law,
- observing human rights and the fundamental rules of freedom,
- the Member States of the European Union claim that NATO is a fundament of a collective Defense of its members (Gryz, 2008, 130 – 132).

Yet, it must be said that there are big doubts concerning the practical implementation of the abovementioned goals. The Europeans, besides general declarations, are not very eager to undertake clearly defined efforts to strengthen their military potential. The matters of the foreign and Defense policy are the weakest link of the European Union (Kagan, 2003).

As we do not want the fighting powers from the past to come back, we have to remember about the importance of the force which is indispensable to bring in the rule of law on a scale of a country, but also to keep order worldwide. The Europeans are right when they count for the soft forms of pressure. Today, we press for fostering democracy, self-governance and human rights (Fukuyama, 2005, 138 – 139).

## **The Security Strategy of the European Union**

The security of Poland depends mainly on international security, as we are a part of the European Union and NATO.

The European Union has been built on 4 pillars:

- free movement of people,
- free movement of goods,
- free movement of services,
- free movement of capital (Leonard, 2002).

These assumptions became a turning point in the process of stabilizing and developing the continent. It concerns, in particular, the commitments of the Member States of the European Union to peacefully coexist and resolve disputes, which in effect brings us closer to the vision of a united and a peaceful continent. It also concerns the European Security and Defense Policy – ESDP (Jakubczak, 2003, 109), because security is a challenge providing development and cooperation between the states of the European Union. The governing elites of particular countries have noticed that only a collective security and a mutual cooperation in this area may provide a long-term secure existence of all the Member States (Gryz, 2008, 109).

In the new era of threats and chances, the enlargement and the strengthening of the community of democratic countries with a market economy, should be a main goal. In the times of the Cold War we tried not to let the free institutions be endangered. Today, however, we want to enlarge the cycle of the nations that benefit from these institutions, because we dream that a day will come, when the views and the energy of every single inhabitant of our planet will find their expression in the world of blooming democratic states that cooperate with each other and live in peace (Clinton, 1993).

The political and military structures responsible for conducting ESDP:

- Political and Security Committee – PSC
- EU Military Committee – EUMC
- EU Military Staff – EUMS
- Politico – Military Group – PMG
- European Defense Agency – EDA (Jakubczak, 2003, 110-112).

The European Security Policy adopted in 2003, became a fundament for the consolidation of the European Union external policy. It should be noticed that the contemporary Europe is secure and, most of all, free in its borders thanks to the period of peace and a stabile cooperation between nations in its structures. In the international (within the EU) policy, the Member States have changed the rule of a monologue to the rule of a dialogue in resolving disputes. It enabled the change from a confrontation to the peaceful way of solving conflicts. Such an understanding of a problem let for stabilization, safe cooperation and dynamic development of democratic systems.

It should be noticed that no single country is able to cope with the complex problems of the contemporary world. The European Union has 27 Member States with 460 million people and a fourth of the world Gross National Product. With its incontrovertible instruments

it is a very important factor in the global scale. In the recent years, the Armed Forces of the European Union have participated in a lot of missions beyond the borders of their own countries. It made the EU a very credible organization on international scene. As it comes to the key threats it must be claimed that the aggression against any of the Member States of the European Union is little probable, including a more stable security of Poland. The European Union and Poland face different kinds of threats like energetic dependence of Europe, terrorism, proliferation of traditional weapons and the Weapons of Mass Destruction, regional conflicts, unrests and migrations, falling of states resulting from bad governance and organized crime. The European security is affected also by regional conflicts in the places such as the Middle East, the Korean Peninsula, Kashmir, Somalia, and Afghanistan. These conflicts impact a regional stability, spread threats for minorities and human rights. Europe is a foreground target of these threats' impact, so it has to think globally and act locally. In order to provide security the European strategy opts for the three strategic goals: counteracting threats, building security in a direct neighbourhood and strengthening the international order based on effective multilateralism (Gryz, 2008, 136-140).

1. Tackling threats has to take into account both the distant threats that may turn out to be very dangerous, and those in a direct neighbourhood. In the case of new threats, the Defense line will often have to reach beyond a state's own borders, because the new threats are very dynamic and they develop dynamically. It means that the European Union has to be ready to act in every moment, even before the occurrence of a crisis. It is never too early to prevent conflicts and threats.

2. Building security in a direct neighbourhood. It is in Europe's interest that the states are secure and peaceful. The enlargement brought its borders closer to the turbulent regions, so the activities of the European Union should support the activities of the governments striving for building international order along with the modern forms of tackling political problems existing in those regions.

3. In the era of globalization the security of Europe, including Poland depends in a great part on the efficiency of a multilateral system. This system acts through the strengthening of international community, a functional development of international institutions and international order based on international law, international conventions and other valid commitments concerning the security. The European Union is interested in the effective impact of international institutions, rules and treaties. Therefore, it has to be ready to act when their stipulations are violated. The activity adequate to the development of these phenomena is a condition for the international order based on law. It should include bilateral relations in the framework of a transatlantic cooperation strengthening the international community as a whole. NATO is the expression of these relations. The important factor of increasing the significance of security is building and development of the means of trust and arms control. They can contribute significantly to the security and stability in a distant and a close environment of Europe. The quality of international communities depends on the effective governance in the states. Therefore, the best protection of the European security is Europe of good and effective governments of its Member States with mature democracies, supporting new social and political forms, fighting corruption and abuses of power in care of human rights and a protection of human dignity. The states that are not in favour of such solutions are left at the margin of international community. They also have to take into account that the 21st century is a century for those that observe the law of international order (Gryz, 2008, 141-144).

## **Building potential opportunities of the European Union in the process crises management**

Efficient functioning of the European Union in the area of ESDP, apart from the common political will of the Member States, depends mostly on the availability and flexible employment of a military and a civil potential. It is also of key importance to signalize one's shortages in the aspect of ESDP crisis management. It has to be noticed that building common military resources is not an equivalent to creating a uniform European Army but only a conglomerate of common multinational forces. This process is very difficult in the implementation phase, because in its dimension it touches the sovereignty of the states, the participants of this process. The efficiency of ESDP (the European Security and Defense Policy) is also linked to integration processes and reforms in the war industry. Common scientific research, arms production, planning and prognosticating purchase result in a more costly but how an efficient equipping of multinational forces. It enhances the chances of success on a medium and a longer term. There is also a conviction about a possibility of overlapping of the forces of NATO and the EU, and also about the dependence of the European Union on the USA that may influence the transatlantic relations. These problems can be overcome by establishing the common criteria of duplication and the convergence criteria, and also specifying the types of missions carried out by NATO and the EU (Gumpert, Gerlich, 2002, 268 – 269).

It is being observed that the European Union manages plans related to security, whereas the USA try to tackle problems. There are the same programmes within the EU and NATO:

- the European Capability Action Plan (ECAP) and the Defense Capability Initiative (DCI),

- the European Rapid Reaction Forces (ERFR) and the NATO Response Forces (NRF). The enumerated conceptual solutions may counteract the creation of operational capability within the EU, because they refer to the same areas of the Member States. The first arrangements of the Headline Goal from Helsinki in December 1999, which concerned the autonomisation of the European Union, assumed that till 2003 the Member States would deploy and maintain the forces capable of fulfilling the whole spectrum of the Petersburg commitments including 15 brigades or 40-60 thousand of soldiers ready to be employed within 60 days. It was a voluntary contribution of the Member States. There were a lot of ambiguities, if these were forces of a direct support or not. As can be read in the literature of this field, the Armed Forces consist of three elements: logistics, operational support and operational or manoeuvring forces. The Armed Forces formed in such a way: in a number of 60 thousand with logistics and supporting forces, are not capable to provide the realization of the Headline Goal. Such forces, and in such a number, are capable of conducting not very demanding missions. To fulfil the Petersburg missions the forces of doubled amount are needed. The declared contributions of the Member States, apart from the quantity and the capability, have not fulfilled the quality criterion, and particularly the availability, mobility, support and interoperability ones. Transport is another important area. In a declared amount and quality it has not been sufficient when compared to the needs. There is a lack of clear guidelines as to the air Defense, the dynamics of the maintenance of the land, the navy and the Special Forces, the detachment troops and the radio electronic fight, the ways of training, the supplement losses in a wide sense. The European countries will have to decide if they want to have their own system of anti-ballistic defense or to limit only to a defense on the theatre of operations, i.e. against mid-range missiles. It is also important for the European Union to lead the missions of military crisis management (command, supervision and infrastructure). Infrastructure is of a key importance for preserving communication, reconnaissance and intelligence (Słomczyńska, 2007, 280 – 284). One and

an important civilian and military support programme is the Galileo programme. This is a system of global satellite navigation compatible with the American GPS system. Among others, it lets for:

- tracking the movements of adversary forces of an enemy,
- tracing and taking the aim by means of an attack or attacks,
- It has an important influence on a decrease of own losses.

The system's defect lies in being less precise on urban areas, on the poles (the South Pole and the North Pole) and with specific weather conditions, e.g. high cloudiness. Because of its usage, the system can be the object of an enemy attack. It can also be used against its purpose, e.g. for terrorist activities. All the settlements had been pointed out in the Headline Goal Catalogue and The Headline Force Catalogue. The comparative analyses show the shortages in the commitments of particular countries. From among 38 shortages presented in the Helsinki Catalogue, 21 have been acknowledged as serious ones. Managing the ECAP process (the European Capabilities Action Plan) has been based on the following rules:

1. Improving the efficiency of the European Defense efforts and strengthening cooperation between Member States or groups of Member States.
2. Systemic attitude to the European Defense cooperation, based on a voluntary national contributions.
3. Coordination between the EU Member States and the coordination with NATO.
4. Public support for the ECAP process by making it transparent and public.

The Road Map has also been created to overcome problems (voluntary character of the contributions and building coherent capabilities). A report from the realization of the Road Map is to be presented after each Presidency, and both the ECAP Road Map and the Capability Improvement Chart shall constitute a uniform process (Schmidt, 2007, 286 – 288).

The Member States have declared building a quality aspect of the common capabilities, in a shape of a new goal – the Headline Goal 2010. It sets priorities in the defense area. First of all, the quality indicators have been acknowledged as the most important. The engagement of the Member States has been verified and the military potential was increased to make the states fulfil their obligations more effectively. Secondly, the realization of the idea of battle groups was included in the Headline Goal 2010. Thirdly, an emphasis was put to gain some means of strategic transport, providing a capability of an independent action of adequate EU forces with a proper battle potential, even on far distances (Kulesa , 2005).

Similarly to building autonomous military capabilities of the EU crisis management, the common actions concerning the civil capabilities in the framework of ESDP are being conducted, which concern the creation of common resources and means of action. The process of creating the civil capabilities encounters a lot of difficulties, especially in the countries with great resources and a great economic and a defense potential. The civil aspect of crisis management includes:

- operations supporting peace (maintaining, extorting, creating and building) through:
- the police forces,
- strengthening the rule of law,
- strengthening civil administration,
- defense of civilians,
- extorting sanctions and embargoes by force,
- search and rescue actions,
- support for humanitarian actions,
- support for fighting natural disasters,
- operations of retreat,
- support for the actions of civil staff evacuations.

The aspect of a civil management requires a detailed elaboration in a context of its development and planning. Firstly, a strategy of action has to be elaborated, in the way in

which the civilian management is coherent with the elements of ESDP. Secondly, a formula has to be developed in such a way that the European Union could support the United Nations or other regional organizations in the abovementioned tasks. The goals of the police missions concerning strengthening local police and its replacing are a priority for the Committee for Civilian Aspects of Crisis Management. Along with that, the efforts were made to strengthen and return the local judiciary and penitentiary systems. The creation of the European Military Police Force (or the European Gendarmerie Force – EGF) has also been noted. It would be at a disposal of the EU. The creation of the European Military Police Force to execute the police missions is particularly important when moving from a military to a civilian mission. These units can be subordinate to either a military or a civil command. Their aim is to guarantee security and public order, and fulfill the police tasks concerning judiciary system. These forces are to be able to participate in every phase of a crisis management operation. The volume of these forces is an open process. Yet, at the beginning phase of their organization the number of 5 000 police officers were set, from which 1/5 should be ready to be used in the period of 30 days. They will be used mainly for international missions with the whole spectrum of preventing and crisis management operations. The forces will fulfill the following tasks: security and public order, counselling the local police in their everyday activities, including investigation and inquiry activities; public supervision, traffic regulation, borders inspection, general intelligence, intelligence and criminal activities, searching victims, searching culprits and their transfer to proper judiciary authorities, population and property protection, trainings of the police according to international standards and instructing trainers. The forces ready to use will act under the auspices of the EU. They can also be used by the UN, OSCE, NATO or an ad hoc coalition. At the commencement of an operation a Force Commander is appointed. The forces may consist of an operational component, a component to fight criminality and a logistic component (Słomczyńska, 2007, 290 – 293).

Strengthening of a civil administration can be another component. It consists in the creation of an appropriate group of experts by the EU Member States. It is based on a voluntary contribution of the EU members in the context of a conducted operation, depending on the needs and the pace of their deployment. It is crucial to keep a link between an administrative component of crisis management and a long-term structural assistance.

The experts should be prepared to work in various phases of a crisis. They should be able to cope with different tasks, from counselling, training and monitoring to executive functions when the local structures need support, when they are weak or when they do not exist at all. The aim of the civil administration operation is a creation of a functioning administrative apparatus and fostering, as early as possible, a transfer of this apparatus to the hands of the local community. The European Union should cooperate with governmental and non-governmental organizations, private sector and civil society. Building of the EU capability concerning the administration experts should be based on local needs, conditions and capabilities.

The last component of the capability concerning civil crisis management is a protection of civilians. It embraces the resources of the Member States concerning rescue services organized for the need of protection and rescue. These resources are also used to react on the natural, technological and environmental threats in the Member States and the third countries. During a crisis the civil guard supports the actors acting in a humanitarian region, providing the affected population with an instant protection and guaranteeing survival. The goal of the European Union is to create 2-3 coordinating and assessing groups that would consist of 10 experts and could be deployed in the period up to 3-7 hours, depending on circumstances. The experts should be summoned up in the period up to 24 hours, from a group of 100 experts, chosen to fulfil this role. It is also vital to create intervention groups of a civil guard, consisting of around 2 000 individuals, capable of a short-time deployment, and to create additional and more specialized resources from appropriate services. In the

places where it is justified the non-governmental organizations and other actors should be deployed, in order to fulfil the needs resulting from the crisis. They should be deployed in the period from 2 days to a week. These recourses can be used autonomously and for other organizations' purposes (Słomczyńska, 2007, 290 – 293).

Late in 2005, the new priorities of action were set, concerning building of civil capabilities covering: improving a civil aspect of ESDP to react earlier to a crisis, increasing personal capabilities of the Member States, establishing a list of priority shortages and the ways of tackling them, encouraging national actors to send the staff, in civilian missions, to appropriate regions; intensification of activities supporting missions – equipment, logistics, security, human resources, financing, establishing methods of recruiting the staff with the highest qualifications; strengthening the planning capabilities and a support within the Council Secretariat. The significance of the Civilian Response Teams (CRT) has been noticed and also of a rule of rapid deployment of police units and their formation. The Civilian Response Teams (CRT) are characterized with the capabilities of a rapid crisis reaction and a high flexibility as to their volume and composition. They have appropriate experts in the Member States and they assume the participation of the Council Secretariat. The European Commission experts along with the staff will be invited to participate in them in order to provide the coherence of an action.

The CRT are used to be employed in the early operational phase in the area of operations after taking the Common Operation over by the Council. They also support the inclusion of a civil mission of crisis management. CRT can be mobilized and deployed in a period 5 days on the request of the Secretary General/ High Representative for CFSP, the Political and Security Committee and the Counsel. CRT territorial operations last no longer than 3 months (Słomczyńska, 2007, 298).

The costs, before undertaking a common operation „lie where they come from”. It means that every country covers the costs of its own contribution. After the Common Operation has been taken, the costs of the operation are covered according to the Art. 28 EUT, like the civil operations of ESDP. Priority treatment of a civil crisis management resulted in elaborating the Civilian Headline Goal 2008 in the area of a military management. It stipulates that the improvement of the capability of the EU operations depends on the coherence of the employed instruments of the Community and civilian capabilities of EFDP. Apart from four types of operations (police, the rule of law, civil administration and protection of civilians), the European Union should be ready to conduct different types of missions, monitoring and supporting operations of the EU Special Representatives. The European Union should participate in different kinds of actions, such as: a reform of a security sector, a disarmament support, demobilization/ reintegration, strengthening of local institutions through counselling, training and monitoring. Missions preventing conflicts and interventions limiting „spread of a conflict” are of a special character. Civilian missions can be conducted autonomously, commonly or can be coordinated with military missions. The Civilian Headline Goal has the aim of elaborating models and scenarios of actions, presenting a list of national contributions, identifying shortages and capabilities of its participants, and creating a possibility of a regular auditing of the Civilian Headline Goal.

Moreover, the European Union should possess the capabilities letting to conduct simultaneously the missions with a different degree of engagement, including a great mission with a mandate of a function substitution in an unfriendly environment. The civilian missions should be capable of functioning in a theatre of operations for a longer time. A mission should commence in a period of 5 days from the Council's decision and a deployment of some capabilities in a period of 30 days. The civilian missions conducted autonomously or commonly with military missions should be coordinated. Coordination is indispensable in all phases of an operation. Coordination and coherence between the Council and the Commission and other international actors operating in this field is of a key importance. To conclude the considerations concerning developing military and civilian

capabilities and recourses of the European Union's crisis management, several important issues should be emphasized. Firstly, all the existing recourses are insufficient to conduct the whole spectrum of Petersburg missions and the four types of civilian missions. Secondly, the process of building capability initiated in both fields, is slow and inadequate to the level of a declared role of the European Union in this area. Thirdly, there is no clear and common strategic vision how to use the recourses, which makes the European Union not very effective in practice, in spite of the declarations. Fourthly, the efficiency of the EU activities is the bigger, the more resources there are that are common or even community-based. It stays however in a clear opposition to the sovereign prerogatives protected by most of the countries. Further, the process of operationalization of recourses is not possible without adequate financial means, contributed by the Member States and the Community. The use of the rule of a "voluntary contribution" delays this moment. Finally, the process of creating common recourses depends on the whole process of a political integration within the European Union. It means that slowing down of the integration translates into the slowing down in creating a common potential.

Nevertheless, it should be emphasized that the attempts to build common recourses and capabilities of crisis management are a step to a right direction both on a medium and especially on a long term period. Creating common recourses and necessary tools serving for adaptation in the constantly changing international environment enable the European Union to play an active role on all the planes of interaction (Słomczyńska, 2007, 299).

## **Crisis management operations**

Conducting crisis management operations, both military and civilian in their character, by the European Union is a proof of the efficiency of ESDP. While analyzing this problem we can notice that dividing the crisis management missions within ESDP in military and civilian ones is artificial, because both the military missions require a civilian support and the civilian missions require a military one. A characteristic feature of the European Union, while operating within ESDP, is that step by step, it engages itself in the operations more and more demanding and in a less friendly environment. As a result of the analysis of conducted operations we may draw a conclusion that the European Union starts with policy operations and then moves to the military ones. First, it conducts missions based on the NATO rules in a "Berlin Plus" form and, later, the more autonomous missions.

1. A military crisis management is developed on the basis of the Council of the European Union Decision. It is continued with the engagement of OSCE, NATO and the EU. Some of them should be enumerated: the mission under the cryptonym of Concordia, replaced with the police mission under the cryptonym of Proxima in the Yugoslavian Republic of Macedonia, Artemis in the Democratic Republic of Congo, ALTHEA in Bosnia – Herzegovina and the last one, on the request of the UN Secretary General, in the Democratic Republic of Congo under the cryptonym MONUC, during the elections.

2. Civilian crisis management operations, a civilian dimension of ESDP, are mainly directed to the external actions of the EU with the following characteristics: striving for stability maintenance, the use of the means under the international law and a multilateral dimension of the operations. The police operations within ESDP are quoted most often. The UE led mixed operations: civilian and military ones, mainly concerning a reform of the security sector. The mission in Bosnia – Herzegovina, the European Union Police Mission in Bosnia – Herzegovina (EUPM), was the first operation launched by the EU. Then, establishing the police mission in Kinshasa (EUPOL), the Coordination Office for Palestinian Support (COPPS – EU) and the last one was the police mission in the former Yugoslavian Republic of Macedonia (EUPAT), which resulted in finalizing the police mission PROXIMA. For the longer term, the UE supports the peace process in the

region of the Southern Caucasus (Armenia, Georgia, Azerbaijan). The EU led missions strengthening the rule of law: in Georgia and in Iraq under the cryptonym EUJUST LEX, in Darfur (Sudan) and in Ach (Indonesia). Concluding this issue, regardless of its changeability, the EU has been capable of formulating a strategy relating to the external environment. It has started and continues the process of creating recourses and capabilities to lead different missions with various destinies and differentiated scopes. The security and defense of Europe will rather depend on intergovernmental talks than formal negotiations and stipulations of treaties. Different scenarios should be taken into account in a target phase of ESDP' functioning. Firstly, the fall of ESDP, which means the increase of the US hegemony, while realizing their security policy and entering ad hoc coalitions. Secondly, the division of tasks between the EU and NATO, where the UE would be a civilian power as a subcontractor of the UN whereas NATO would deal with the conflicts of a high intensity and with a collective Defense. Thirdly, the scenario is possible in which the European Union would play a role of a superpower with a global scope, concentrating on the security of Europe and of the regions nearby. This fact does not exclude the possibility of the use of a military force, when there would be such a need. In all these three scenarios NATO would be a credible (reserve) participant provided that the US is functioning in its reach (Słomczyńska, 2007, 342-345). Let us acknowledge all these considerations as correct in the planning phase of a mission of a small intensity. Yet, if some unexpected threats appear, life will write different scenarios. Therefore, planning, foreseeing and analyzing possible incidents cannot be free from passivity in the field of security and defense.



# **XI**

## **Risk of cyber-terrorism and the strategy of defense against it**



Terrorism is a problem associated with the society for many years. In the last few years we are witnessing a significant change in quality of the phenomenon.

New means of cyber-terrorism make losses and negative social implications and are becoming more dangerous for the international community. Psychosis of cyber threats is vindicated by the media. Terrorism is a phenomenon difficult to identify specifically, there are a lot of different methodologies of its defining. Over the years this concept was subject to systematic changes. The word “terrorism“ comes from Latin and means fear, terror.

The last decade of the twentieth century have brought great civilization progress. It includes also technological, social, political and cultural changes. Progress in global processes of manufacturing, processing and transmission of information is a serious and actually the most important element of change. This progress is used by more and more countries, including those which have so far not had access to the latest achievements in the field of advanced technology. This results in the dependence on information technology. More and more countries are facing increasing threats of new form of terrorism, i.e. **cyber-terrorism**. The danger of terrorist attacks committed using means of computer systems (information terrorism) and aimed at human life and health, public safety and environment is becoming more and more widespread. Unfortunately, there are many doubts and uncertainties associated with the definition of cyber-terrorism. This phenomenon can be divided into three groups:

- Concepts presented in the media,
- The definitions applicable among specialists,
- Definitions developed for use in other areas of human activity in computer science.

The prevalence of terrorist attacks in recent years has made many experts say that it this kind of actions will be the biggest threat in the nearest future. Acts of terrorism can have a variety of forms. Until they occur, they are treated as so called “political - fiction”. It can be argued that it is difficult to predict how cyber-terrorism will evolve or what form shall it adopt. For several years, the increased reliance of the population of computer technology can be noticed. At the same time cyberspace remains a mystery to most people. It is not surprising that the very mention of cyber-terrorism results in general anxiety. From a psychological point of view, computer terrorism includes two elements that cause rational and irrational fear or dread. The aspect of irrationality comes down to fear of losing control over the computer system. Computers carry out many tasks which have been so far the human domain. They do it much faster and more accurately. Therefore, many people are afraid that machines may become decision-makers. Rational fears are related to terrorist activity and its increasing intensity in recent years. Society threatened by such attacks are in constant fear about the time or target of the attack. This form of terrorism fears are fueled by the media that even normal events announce as cases of cyber-terrorism. Of course, even without the media, society is aware of the level of potential hazard through a huge number of computer viruses, trojans, worms, “logic bombs”, etc. The basic myths of “cyber-terrorism” is identification of each adverse influence on the activity in cyberspace as terrorism. Thus, teenagers hacking activities, creation of computer viruses action against databases or computer networks are associated with computer terrorism (cyber-terrorism). Modern communication technologies have changed for the better life of adults, children and young people. Almost half of Poles think so. Every third Polish citizen claims that world in which these technologies are developed, is no better or worse than the one in which the development of communication did not happen. Despite this optimistic approach, most of us are aware that the use of network and communication technology also involves threats that concern significantly mainly groups: children and young people. Since almost of all use these technologies, it is obvious that a certain percentage of users engage in risky activities or become their victim. There are many such potential risks associated with modern techniques. These include, inter alia, contact with inappropriate content such as pornography, information about psychoactive drugs or exposure to sexual exploitation. Undoubtedly, the entire set of risks include also electronic

aggression. Electronic aggression is carried out by using communication technologies, but it can be also combated using communication technologies. Knowledge of various technical solutions enables communications equipment or Internet service provider defense against noticed that such solutions exist, and young people should be educated in the area as well. Computer fear is increasingly common, but it is exaggerated. Despite the fact that cyber-attacks are becoming more common, they are not so far been carried out by terrorists. The level of destructive power is not substantial enough that it can be qualified as computer terrorism. However, the fear of the threat is exaggerated, it cannot be ignored. Combating information terrorism has become an important not only political, but also economic issue. After a spectacular terrorist attacks of September 2001, the U.S. authorities have spent almost 4,5 million dollars to secure existing systems.

Paradoxically, the success in the fight against classic terrorism can cause that the terrorists direct their attention towards new methods, such as cyber-terrorism. It can become an attractive form of action for the following reasons:

1. In comparison with classical terrorism it is a cheaper form of activity. You need only a computer and internet connection. There is no need to acquire or buy weapons or explosives. The main weapon is the creation of viruses, worms, hoaxes or “Trojan horses” and sending them to the selected target. Even more efficient, though difficult, is to invade the system and force actions with much more desirable effects than traditional terrorist actions.

2. IT technologies make it possible to act anonymous. As regular internet users, terrorists may use a pseudonym or act anonymously, which makes the identification of the real names very difficult or even impossible. In cyberspace there are no physical barriers, border control, customs officers.

3. The potential number of targets of cyber attacks is enormous. Terrorists may attack government computers or computer networks, networks of private companies or individuals, etc. The probability of finding a weak point in security is therefore relatively high. The only difficulty is to find an objective with weak security. Experience show that the probability of such an attack is not small.

4. Cyber terrorism requires less physical exercise and less logistic preparation. Because of it stationary character it is not necessary to travel. During attacks in cyberspace risk of death or physical injury to the terrorists is negligible. Thus, it is easier to convince potential terrorists to actions – recruit.

5. Previous examples of cyber crimes show how large numbers of people may be affected by the consequences of such an attack. This effect is caused due to the global nature of information technology. Thus, one of the main objectives of terrorists - mediality of the attack - is enormous.

The construction of the information society is a fact nowadays. Poland also must proceed with informatization process if it want to be an important country in the European Union. It is one of the ways to become a democratic and modern state. We need to be aware of huge costs of such process and that we need to change in the mentality of a large group of our society. Poland, in the field of information technology, is not a leader, and without proper infrastructure will definitely be omitted by foreign investors. At the same time we must be aware of new emerging threats. The most important is cyber terrorism in various forms. Allocating more resources to information technology and creation of information society we should bear in mind devote some resources for anti cyber-terrorism.

The problem of cyber-terrorism will be current also in the future. Cyber crime, cyber terrorism, cyber war, are not threats you can read in the sci-fi literature, but real action, which we are witnessing. Against each cyberattack we can try to defend, the defense is not always successful, but it will allow to minimize losses. We need new legislation undoubtedly, not only at national level but also at international level, which will be the cornerstone for the safety of people in ‘global village’.

# **Ideas and main objectives of cyberspace security in the Polish Republic**

In the face of globalization, cyber security has become one of the key strategic objectives in the area of security of each state. At a time when there is free movement of people, goods, information and capital - the security of a democratic state depends on the development of mechanisms to prevent and combat threats to cyber security.

Due to the increase of threats to IT systems, from which the total separation is not possible, and the dispersed responsibility for information security, it is necessary to coordinate actions that allow rapid and effective response to attacks directed against ICT systems and their services.

Electronic systems used by government, legislative authority, judicial authority, local government, as well as strategic systems, entrepreneurs and individuals are included in the Policy of the Security of Cyberspace of the Republic of Poland.

Polish Government takes an active part in ensuring the security of information assets, its citizens, and carries out its constitutional duties.

Community initiatives designed to achieve the objectives convergent with the documents in this area are also supported.

## **Vocabulary**

Abbreviations and vocabulary mean:

Abuse - Common name of the security department at the ISP that manages the computer incident response and handles of complaints about abuse,

Cyber security - a set of organizational, legal, technical, physical and education undertakings aimed at ensuring the smooth functioning of cyberspace,

CERT (Computer Emergency Response Team), CSIRT (Computer Security Incident Response Team) - a group set up to respond to security incidents on the Internet,

cyber attack - targeted disruption of the proper functioning of cyberspace,

Cybercrime - an offense committed in cyberspace,

Cyberspace - space of processing and exchange of information created by ICT systems, as defined in Art. 3 Section 3 of the Act of 17 February 2005 on computerization of entities performing public tasks (Journal of Laws No. 64, item. 565, with amendments) in accordance with the Act of 30 August 2011 amending the law of the state of war and the competence of the Supreme Commander of the Armed Forces and the rules for its subordination to the constitutional authorities of the Republic of Poland and some other acts (Journal of Laws No. 222, item. 1323),

cyberspace of the Republic of Poland (hereinafter referred to as CRP) - cyberspace within the territory of the Polish state and beyond, in places where Polish state is represented (diplomatic, military contingents),

cyber-terrorism - a terrorist offense committed in cyberspace,

incident related to information security - a single event or series of adverse events related to information security, which pose a significant probability of disruption of business operations and jeopardize the security of information - (according to the norms in the series PN-ISO/IEC 27000),

organizational unit - an organizational unit within the meaning of the Act of 23 April 1964 - Civil Code (Journal of Laws No. 16, item. 93, with amendments.)

PBC - a proxy for cyber security in the organizational units of the public administration,

entrepreneur - the entrepreneur within the meaning of Art. 4 of the Act of 2 July 2004 on freedom of economic activity (Journal of Laws of 2010 No. 220, item. 1447, with amendments) or any other organizational unit, regardless of the form of ownership,

Sectoral Contact Point - point of contact between actors in the same industry to enable the

flow of information between them and the relevant CERTs or Abuse, cyberspace user- each organizational unit, the office supports a public authority, an entrepreneur and a person who uses the resources of cyberspace.

## **Strategic goal**

The strategic objective of the cyberspace policy is to achieve an acceptable level of cyber-security in the state.

The achievement of the strategic objective is accomplished by creating legal and organizational framework and an effective system of coordination and exchange of information between CRP users.

Policy is compatible with the objectives of:

- 1 A Digital Agenda for Europe [COM(2010)245];
- 2 Strategy for Development of the Information Society;
- 3 The National Security Strategy;
- 4 Medium-Term Development Strategy;
- 5 „Europe 2020” strategy;
- 6 Strategy for Efficient State.

## **Specific objectives**

- 1) Increase of the security infrastructure of the country
- 2) Improvement of the capacity to prevent and combat threats from cyberspace.
- 3) Reduction of the impact of incidents affecting the security of data communications.
- 4) Determination of the competence of entities responsible for the security of cyberspace.
- 5) Creation and implementation of a coherent management system for all entities of government cyber security and establishment of guidelines in this area for non-state actors.
- 6) Creation of sustainable system for the coordination and exchange of information between the entities responsible for the security of cyberspace and cyberspace users.
- 7) Increase of the awareness of users of cyberspace on the methods and means to provide security in cyberspace.

Policy objectives are implemented through:

- a) coordinated system to prevent and respond to threats and attacks on cyberspace, including terrorist attacks;
- b) widespread adoption by governmental entities, as well as non-state actors of mechanisms for the prevention and early detecting threats to cyber security and proper proceedings in such situations;
- c) general and specialized education in the field of social CRP safety.

## **Recipients and scope of impact**

Actions are addressed to all users of cyberspace within the State and outside its territory, in places where Polish state is represented (diplomatic, military contingents).

This policy is valid the government:

- 1) the governing bodies of government: Prime Ministers, the Council of Ministers, ministers and chairmen of committees specified in statutes;
- 2) The central government bodies: organs subordinate to Prime Minister or individual ministers;
- 3) local government bodies: voivods;
- 4) Government Security Centre.

Moreover, the policy is recommended for local governments and municipalities, county and regional governments and other offices (units not belonging to the state and local

government), including:

- a) Office of the President of the Polish Republic;
  - b) the Chancellery of the Polish Republic;
  - c) Office of the Polish Senate;
  - d) Office of the National Council of Radio and Television;
  - e) the Office of the Ombudsman;
  - f) the Office of the Ombudsman for Children;
  - g) Office of the National Council of the Judiciary;
  - h) the offices of state control bodies;
  - i) the Polish National Bank;
  - j) the office of the Financial Supervision Commission;
  - k) state legal persons and other than the above-mentioned state entities.
- Policy is also a guide for action for all other users of cyberspace not been mentioned above.

## **Responsibility for safety of CRP**

Council of Ministers is responsible for the safety of CRP, under the responsibility of relevant institutions i.e.:

- 1) the Minister of Administration and Digitisation,
- 2) The Minister of Defense,
- 3) The Minister of Internal Affairs,
- 4) The Head of the Internal Security Agency,
- 5) Head of the Military Counterintelligence Service,
- 6) other government bodies.

## **Trends in the defence of cyberspace**

Functioning of the State and implementation of constitutional obligations increasingly depends on the development of modern technology, information society and the smooth functioning of cyberspace.

Nowadays safe functioning is dependent on cyberspace security infrastructure that allows the use of cyberspace, gathered in the information resources and services that operate through it.

Infrastructure working in CRP can fulfill State's constitutional obligation towards citizens, ensure continuity and effectiveness of government administration and smooth and efficient development of the Polish economy.

The Polish government sees the need for measures to ensure the security of national IT infrastructure, i.e. To ensure the accuracy and continuity of IT systems, facilities and systems used to implement the constitutional duties and State's internal security. For this purpose it is necessary to determine the minimum security standard that will allow for the implementation of this objective and will minimize the potential damage that an attack on the individual elements of cyberspace may entail.

Security measures of ICT infrastructure will be complementary to the efforts to protect the critical infrastructure of State. In this matter the policy does not affect the provisions contained in the National Programme for Critical Infrastructure Protection.

CRP IT infrastructure must be protected against attacks from cyberspace, destruction, damage or unauthorized access.

## **Risk of cyberspace**

Assessment of the risk associated with the functioning of cyberspace is a key element of cyber security, determining and justifying actions taken to reduce it to an acceptable level. In order to achieve an acceptable level of safety, it is assumed that each unit of government, by 31 January of each year, shall transfer to the Minister responsible for information technology risk assessment summary report (according to the pattern established by the Minister responsible for information technology). The report should contain general information on risks, threats and vulnerabilities diagnosed in each of the sectors in which each institution operates and for which is responsible. The report should be presented as information on how to deal with risk. The minister responsible for information technology should transfer to the Prime Minister, not later than March 31 of each year, a report containing general information on the types of threats and vulnerabilities in cyberspace diagnosed in Republic of Poland.

Minister responsible for information technology in collaboration with the involved institutions will determine a consistent methodology for risk analysis. Using this methodology should be mandatory for the governmental institutions.

### **Portals of government administration**

The main place for exchange of information between the government and the citizen, in an e-society, are websites. They must comply with the essential safety requirements to ensure adequate availability, integrity and confidentiality of data. It is proposed that government entities maintaining Internet portals, in addition to the minimum requirements, shall implement the relevant recommendations and good practices in the field of security, which will be prepared by the Task Force for the protection of government portals in cooperation with the Government Complex Computer Incident Response CERT.GOV.PL .

## **Cyberspace security management in the Republic of Poland**

Within cyber security management, as well as to improve the process of policy objectives and to ensure the effectiveness of the organs of state security, special team responsible for preparing recommendations for the appropriate Minister responsible for all activities related to the security was appointed by the Prime Minister.

The main task of the team is recommending actions to coordinate activities of the institutions carrying out the tasks imposed by the policy, organization of regular meetings, recommending proposed security solutions of CRP.

In order to ensure consistency of information security policies, it is assumed that the minister in charge of computerization in consultation with the Minister of National Defense and the Chief of the Internal Security Agency may prepare guidelines for information security management systems.

### **The role of directors of agencies**

Within government agencies a proxy for cyber security should be defined.

Tasks of the proxy of cyber security must cover in particular:

- 1) implementation of obligations under the relevant legislation to ensure cyber security;
- 2) development and implementation of procedures for responding to computer incidents that will be applied in the organization;
- 3) identification and conducting periodic risk analyzes;

- 4) preparation of emergency plans and their testing;
- 5) development of procedures to ensure appropriate information about CERT;
  - a) occurrence of incidents of computer;
  - b) relocation of an organizational unit, contact details, etc.

## **Guidelines for education and training for safety**

Under the Policy, the Council of Ministers recognizes the need to begin work on the implementation of educational activities. It is assumed that the actions in this area will be conducted among current and future users of the CRP. They are designed to reinforce the impact of the two previous measures, fixing of their users, and creating the possibility of passing to the next stage of the implementation of the policy. In order to improve the qualifications there is a need to develop training system for cyber security proxies. During the trainings, emphasis should be placed on the issue of incident response information security.

## **Training in the field of IT security as element of permanent education in universities**

One of the key aspects of security of CRP is to retain highly qualified personnel in the public and private sectors responsible for the maintenance of IT systems, with particular emphasis on safety critical resources of the state. To ensure a continuous supply of well-trained professionals in the field of IT security it is needed to involve universities in achieving the objectives of the policy. Issues relating to cyber security should become a regular part of teaching. For this purpose it is necessary to put IT security topics on the list of learning outcomes is "National Qualifications Framework" at all stages of education.

## **Preventive and educative social campaign**

The universality of the Internet and the increasing importance of the availability of the services offered by cyberspace, make it necessary to raise awareness about safe methods of using the Internet and raising public awareness on emerging threats.

Due to the fact that both individuals as well as public institutions are threaten by crime in cyberspace, businesses, social organizations and campaigns need to be multidimensional and should take into account the diversity of the forms and content of communication, depending on the needs of its recipients. It is assumed that a public campaign will be a long-term and widespread.

Due to the information security conditioning of public service information campaigns will be addressed, in particular, to government workers and those whose resources are in the infrastructure of CRP. It is assumed that preventive - educational campaign will be targeted in general to children, youth, parents, teachers at all levels of education.

The campaign should also be carried out through the media - as an important partner in promoting security issues. Thanks to the media the implementation of the policy will also be possible to carry out information and educational campaigns. The assumption is that the awareness campaign about IT security, educational, organizational and legal undertakings will be presented on the website of the Ministry of Administration and Digitization and Government Team of Computer Incident Response and CERT.GOV.PL. Moreover, it is assumed that effective communication content, initiatives and results of the policy will be spread to broad social and professional circles.

## **Assumptions of technical activities**

On the basis of procedural and organizational measures (eg. risk treatment plan), the last stage of the policy should be engineering activities. Their goal will be to reduce the risk of threats from CRP. Specific projects launched by the Ministry of Science will enable those engineering activities.

## **Team for incident response in government administration**

For effective carrying out activities related to ensuring the safety of CRP, including responding to computer security incidents, it is necessary to provide adequate technical facilities not only capable to meet current needs, but also taking into account the increasing demand for specialized ICT systems in the future. All teams after the unification of responsibilities and response procedures, as well as determining the area of a task (constituency), would create a national system of computer incident response, which in addition to co-operation would also cover joint conferences, training and exercises. Department of Security of Internal Security Agency (ABW) and ICT Team CERT Poland, which is part of the Research and Academic Computer Network (NASK), have implemented an early warning system against threats from the Internet - ARAKIS-GOV. Development of the system will be implemented in accordance with the detailed schedule. Simultaneously taking into account the progress taking place in information and communication technologies and the related trend of the emergence of increasingly sophisticated threats, it is assumed to take initiatives to promote the creation of new, innovative solutions that support information security.

### **Development of safety teams**

CERT teams are competency centres serving substantive help while creating appropriate structures and procedures. In addition, they are also used to solve problems in different organizational governmental or business units. Each institution within their own personal resources and technical resources may establish its own local incident response team. In addition, the tasks of Computer Incident Response Teams is to maintain internal informational sites. Sites are the main sources of information about the safety of ICT for people involved in ICT security in the governmental institutions and other interested in the subject. In particular, the sites are a place of publication of the following information:

- 1) News related to IT security;
- 2) information on potential risks and threats;
- 3) security bulletins;
- 4) all kinds of guidelines, best practices, etc.;
- 5) reports and information on the trends and statistics;
- 6) forum for the exchange of information and experience of those involved in activities related to IT security.

Sites will act as points of IT security incident reporting forum. The sites will be designed so that users without high computer knowledge can report the incident or find information where the incident can be reported.

### **National computer emergency rediness system in CRP**

Polish government establishes a three-level National System of Computer Incident Rediness in the CRP:

- 1) Level I - the level of coordination - the minister responsible for information technology;
- 2) Level II - Computer Incident Response:
  - a) Government Computer Emergency Rediness Team CERT.GOV.PL - responsible for coordinating computer incidents in the CRP,
  - b) Departmental Security Management Services Center, Data Communication Networks - performing tasks in the military sphere,

3) Level III - the level of implementation - the administrators responsible for various electronic systems operating in cyberspace.

Established response system ensures the exchange of information between teams of of public administration and CERTs (CERT Poland, TP CERT PIONIERCERT), CSIRT, ABUSE, telecommunication companies within the meaning of the Act of 16 July 2004 - Telecommunications Law (Journal of Laws No. 171, item. 1800, amended and service providers of electronic services within the meaning of the Act of 18 July 2002 on the provision of electronic services (Journal of Laws No. 144, item. 1204, amended) accordance with applicable law, and in particular in accordance with the Act of 29 August 1997 on the Protection of personal Data (Journal of Laws of 2002 No. 101, item. 926, amended) and the Act of August 5 2010 on the protection of classified information (Journal of Laws No. 182, item. 1228).

## **Cooperation with entrepreneurs**

It is necessary to activate entrepreneurs whose protection from the dangers of cyberspace is important for the proper functioning of the State.

The main target of such activities are companies operating in particular in the following sectors:

- 1) supply of energy, raw materials and fuel,
- 2) communication,
- 3) ICT networks,
- 4) financial statements.

The policy envisages the initiation of activating cooperation between entrepreneurs managing their own ICT infrastructure, belonging to CRP ICT infrastructure or of a similar nature, and thus exposed to similar types of vulnerabilities and methods of attack. One of the forms of cooperation will be the creation of bodies appointed to the internal exchange of information and experiences and cooperation with public authorities in the field of security infrastructure CRP.

## **International cooperation**

Due to the global nature of the problems related to cyber security, an important element is to maintain and develop international cooperation in this regard.

The Polish government recognizes the need that Poland, through their representatives, government agencies, public institutions and cooperation with non-governmental institutions, initiated and conducted active steps to increase the security of CRP at international level.

## **Financing**

Policy will not imply additional resources from the state budget to finance the activities established in the year of its entry into force, as the current public administration agencies already partially fulfill the objectives set out in the Policy. Therefore, it is assumed that each organizational unit clearly shows tasks already carried out and the funds spent to them.

Necessary expenses related to the implementation of the policy will be financed within the limit of expenditure provided for in the relevant part of the budget for the year.

## **The results and efficacy of activities**

Long-term effects resulting from the implementation of this policy and specific projects developed on its basis are expected :

- Greater security and higher levels of CRP state resistance to the attacks in CRP,

- Consistency for all involved in fulfilling the policy on cyber security,
- Less effective terrorist attacks in CRP and lower costs of removing the consequences of attacks of cyber terrorists,
- Effective system of coordination and exchange of information between public and private entities responsible for ensuring the security of cyberspace and those that have the resources constituting the critical ICT infrastructure of the state,
- Greater competence of entities involved in the security of ICT infrastructure functioning in cyberspace,
- Greater public confidence in the proper state security services provided by electronic means,
- Greater public awareness to the methods for the safe use of electronic systems.

Violation of those rules may result in exclusion from the community of the entity's information and the creation of barriers to access to public information. Adequate safeguards, security and reliability of data processed ICT systems are the highest of modern systems posed. Institutions implementing the policy should indicate how the security of information systems, procedures to be followed in the event of violation of computer security in information systems security policies of the systems. The aim is to ensure adequate response, evaluation and documentation of security breaches and to ensure adequate systems to respond to incidents in order to restore an acceptable level of safety. An important duty to immediately inform the appropriate administrator or the CERT team has detected the incident and to take or refrain from action in order to handle the problem.

# **XII**

## **State institutions in the counteraction against acts of terrorism in the Republic of Poland**



Terrorism embraces activities of organised terrorist organisations, in violation of the law - to intimidate or extort on the given group of the civilians or the country to make concessions on the way to attain its particular objectives.

On the threshold of the 21st century the terrorism became a considerable threat for the national security of every state, therefore every state should have an effective, made-to-measuresystem implemented up of its possibilities of the counteraction for terrorism which will be (is supposed to be) a part of the national strategy of the fight against terrorism. Poland did not experience acts of terrorism, directed towards the Polish population, therefore there is an incorrect opinion that we aren't threatened with the terrorists attack. The truth is that ideal system does not exist, that might prevent attacks even in such countries as the United States of America, Japan, Spain, Great Britain or Israel - in which acts of terrorism took place, they are not able to create and implement in the absolute way the system that prevent the threat of terrorist attacks. Counteraction for terrorism is a challenge of contemporary time and should be concerned with the physical elimination, using the various systems - generic and using special anti-terrorist units. Analysing the counter-terrorism system in Poland, which is prepared in accordance with the design of systems contained in the National Security Strategy of the Republic of Poland - adopted by the Polish government and approved by the deceased President Lech Kaczynski in November 2007 (points 122 and 123), and also the Vision of the Armed Forces until 2030 at the point 29 - there must distinguish the following milestones of country activity:

**Recognition of the terrorist threat** that consist in monitoring of the activities of individuals and terrorist groups in order to achieve the specified performance of the ideological or political.

**Prevention**, which involves refraining of individuals or terrorist groups to carry out an act of terror on Polish territory. Prevention should be seen as an integral component of the recognition, because only the right recognition of a specific threat can lead to its identification and to take appropriate counter-measures designed not to allow for the threat. On this stage also preventive measures are taking place. As regards of prevention activities should be distinguished activities of state institutions and non-state organizations.

**The fight against terrorist threats** is the liquidation of individuals or terrorist groups, which use sophisticated methods of terrorism. Fighting, as well as prevention, is closely related to the recognition, but in contrast to both previous stages - the fighting comes after occurrence of the prerequisites or act of terrorism. In the Polish of counter-terrorism system is a lot measures that can be taken to combat terrorism. Apart from the measures typically forceful there are also formal and legal, which can be used to combat acts of terrorism and effective disposal of the perpetrators (individuals or special terrorist groups).

**Liquidation of consequences of terrorist attack**, is to manage the emergency action and protection against secondary attack. At the municipal level, the responsible person is the mayor (voyt, mayor, president), the starost is the person responsible on county level, while at the voivodship level - the voivodship governor. To sum up - for the crisis management are responsible both - local government and central government. Crisis Management Centers are also preparing scenarios (variants) of potential threats, which include also terrorist attacks.

## **Internal Security Agency**

Established under the Act of 24 May 2002 on Internal Security Agency (polish: Agencja Bezpieczeństwa Wewnętrznego, ABW) and Foreign Intelligence Agency The act defines the version of the Law ISA (ABW) is competent for internal security of the state and its constitutional order. Has the task of recognition, prevention and detection of crime including espionage, terrorism, violations of state secrets and other crimes affecting the security of the state.

## **Foreign Intelligence Agency**

Foreign Intelligence Agency (polish: Agencja Wywiadu, AW) is based on the Act of 24 May 2002 on Internal Security Agency and Foreign Intelligence Agency. Main FIA task is to acquire, analyse, process and transmit information to competent authorities - that may be relevant to the security and international position of the Republic of Poland and its economic and defense potential. IFA has also the tasks of identify and prevent security threats detrimental to the security, defense, sovereignty and inviolability of the territory of Poland, and recognize international terrorism, extremism and international organized crime groups.

## **Police**

Police (polish: Policja) was established by the Act of 6 April 1990 on the Police. According to that Act on Police, Police has, among other duties - only a general mission to protect the lives and health of people and property against unlawful attacks in violation of their property, protect public safety and order, including ensuring peace in public places and on a public conveyance, road traffic and on waters intended for common use, as well for the detection of offenses and crimes, prosecution of their perpetrators. Although the Police have not literally entered into the Act to combat terrorism, however, we have to remember that in the criminal code are included adequate records of the crimes of a terrorist character.

In the international range, in the recognition and combating of terrorism, the Polish Police conduct regular and ongoing cooperation with:

- Terrorism Working Group (TWG),
- Police Working Group on Terrorism (PWGT),
- Interpol,
- Europol,
- Police liaison officers of other states, including the FBI.

## **Border Guard**

The Border Guard (polish: Straż Graniczna) in accordance with Article 1 of the Act of 12 October 1990 on the Border Guard. Border Guards under Article 2 point 5b has the authority for the possibility of counter-terrorism. In addition to border security and to ensure control of border traffic, provide security for international communication and public order within the territorial border, and the property also in the border zone. Border guards also prevent the unauthorized transportation of harmful chemicals, nuclear materials and weapons, ammunition and explosives.

## **Military Gendarmerie**

Military Gendarmerie (polish: Żandarmeria Wojskowa) carries out tasks arising from article 4 paragraph 1 of the Act of 24 August 2001 on Military Gendarmerie and military law enforcement authorities (Journal of Laws of 2001., No. 123, item 1353 and No. 154, item 1800). Military Police is to protect public order on the military areas and objects and in public places, to protect life and health of people and property against military attacks infringing goods and combat natural disasters, extraordinary environmental threats and eliminate their effects, actively participate in search and rescue actions, protect life, health and property.

## **General Inspector of Financial Information**

The legal basis is the Act of 16 November 2000, Journal of Laws of 2003., No. 153, item 15051 and Journal of Laws of 2010., No. 46, item 276 preventing marketing of property values derived from illegal or undisclosed sources and combating the financing of terrorism. The General Inspectorate of Financial Information does not have specialized departments involved in the recognition of sources of terrorist financing. This task is performed, depending on the needs and work, especially by the designated staff of the Security Agency (ABW) and the Police. The activities those two institutions must be coordinated – for this purpose collegial bodies were created whose task is mostly to exchange information and coordinate activities.

To ensure co-ordination and exchange of information the following colleges and units were established:

### **College for Special Services**

The legal basis for the activities of the college is the Act of 24 May 2002 of the Internal Security Agency and Foreign Intelligence Agency, Chapter 2, Art. 11-13. In addition, organizational issues are regulated by the Regulation of Council of Ministers on 2 July 2002 on detailed procedures and rules of the College for Special Services and the scope of activities of the College secretary. The tasks of the College include: formulation of judgment or expressing opinions on matters such as: directions and action plans for special services, draft legislation and other government documents concerning the activities of the secret services. The College, in accordance with Art. 12 Paragraph 1 point 7 of the Act, is responsible for monitoring and coordinating the activities of the Internal Security Agency and Foreign Intelligence Agency, and the Police, Border Guard, Military Gendarmerie, Prison Service, the Government Protection Bureau, Customs Inspection, customs, tax offices and chambers, fiscal control authorities, regulatory financial information. This provision gives the College broad powers in coordinating services becoming important, auxiliary body of the Prime Minister responsible for recognition and elimination of threats. The President of the College of the Prime Minister and the members are: Minister responsible for Internal Affairs, Minister responsible for Foreign Affairs, Minister of National Defense, the Minister responsible for public finance, Head of the National Security Bureau. Heads of the Internal Security Agency and Foreign Intelligence Agency and Chairman of the Parliamentary Committee for Special Services also attend the meetings of College for Special Services.

### **Task Force for the Coordination of Operations and Reconnaissance in combating political terrorism of the College for Special Services of Council of Ministers**

The Task Force was established in January 2003 under Council of Ministers Regulation on 2 July 2002 on the detailed procedure and functioning of the College for Special Services and the scope of activities of the College. The creation of this Task Force is based on Art. 8 of the Regulation, which states that the President of the College may set up ad hoc a team, whose task will be particularly described. The team, of a permanent character, include officers from operating divisions of the Internal Security Agency, Intelligence Agency, Police, Border Guard, Customs Service and the General Inspector of Financial Information, who periodically exchange information on any terrorist threats, including persons suspected of terrorist activities (Pokruszyński, 2009, 18-24).

## **Government Information Community**

Government Information Community was established on 9 September 2002. Community Information is a subsidiary body of the Government of Prime Minister. The team carries out the exchange of information among government agencies relevant to internal security and international position of the Republic of Poland on the international arena, as well as the analysis of these data and forecasting risk in this respect. The most important tasks are:

- International terrorism and extremism,
- International organized crime groups.

The Chairman of the Government Information Community is the Head of the Intelligence Agency. The Community includes also:

- Undersecretary of State in the Ministry of Foreign Affairs
- Secretary of State in the Ministry of Internal Affairs,
- Secretary of State in the Chancellery of the Prime Minister,
- Undersecretary of State in the Ministry of Defense,
- Undersecretary of the Ministry of Economy,
- Undersecretary of State in the Ministry of Finance,
- Deputy Head of the Internal Security Agency.

A representative of the National Security Bureau also attends the meetings of the Community.

## **Inter-ministerial Centre for Combating Organized Crime and International Terrorism**

The center is a subsidiary body of the Prime Minister, supported by the Ministry of Internal Affairs. It was established under Regulation No. 54 of the President of the Council of Ministers of 30 April 2002 on the creation of the Inter-ministerial Centre for Combating Organized Crime and International Terrorism. The Center coordinates and ensures support of government authorities to recognize, prevent and combat organized crime and international terrorism and protect critical infrastructure, coordinate the cooperation of authorities of other countries in the implementation of these tasks. The tasks of the Centre are: critical infrastructure, organized crime and terrorism risk monitoring; making analyzes and assessments, providing opinions and proposals, designing direction of projects to combat threats to critical infrastructure and organized crime and terrorist acts, ensuring the cooperation of units and services, organizing training, initiating legislative work, organizing international co-operation. The executive body of the Centre are task forces.

The Head of the Centre is the Minister of Internal Affairs and Administration, and the deputies: Minister of Finance, Minister of National Defense and Minister of Foreign Affairs. It comprises also Chiefs of Police, Border Guard and Military Gendarmerie, the heads of the Internal Security Agency, Foreign Intelligence Agency, the General Inspector of Financial Information, the General Inspector of Financial Information and the Head of the Customs Service.

## **The task force for the coordination of anti-terrorist attacks using explosives and other events bearing the features of a terrorist attack**

The task force was established on 10 September 2002 under Decision No 3-02 by the Head of Inter-ministerial Centre for Combating Organized Crime and International Terrorism. The team's task is, among others, ongoing analysis of events and operational information, co-operation with representatives of the police and relevant departments of

other countries in the exchange of information on terrorism threats, ensure coordination and determination of courses of action to combat the activities that bear signs of terror and detection of the perpetrators of such crimes.

Despite creation of a number of institutions, services for the prevention and suppression of acts of terrorism we can never be sure if we can prevent acts of terrorism. The reason for this is growing technology, transportation that can help terrorists. But time and history has shown that it is better to do anything in the fight against terrorism than to hope that acts of terrorism will not occur.

## **The EU institutions combating organized (cross-border) crime**

In the process of changes caused by process of globalization in the contemporary world we can notice the phenomenon of social and ethnic exclusion of groups and even countries that do not keep up with these developments. Exclusions cause that the aspirations of excluded people express in illegal activities, especially in organized crime, creating a new source of danger on the edge of prosperity. The most important criminal activities include arms and drugs trafficking, due to its scale and generated profits (profits of financial flows “criminal economy” are varied depending on the source. International Monetary Fund estimated that in 1994 the global value of the drug trade was approximately \$ 500 billion per year, which exceeded the value of the global trade in oil), the total profits of all types of criminal activity reached a staggering total of about \$ 1 trillion per year, equivalent to about U.S. federal budget. In 1999, the International Monetary Fund estimated the value of global money laundering in the amount of about 1.5 trillion dollars a year - which corresponds to 5% of global GDP. Apart from that we can distinguish human trafficking (also called sexual slavery), intellectual property theft, counterfeiting of branded goods etc. Another problem seems to be the emergence of a new global network of transnational (cross-border) crime of a terrorist character that bypass the protective barriers and do not care about the increase in the level of risk in their criminal activities. This phenomenon is so severe that no other organizations are not able to generate such a risk (Castells, 2009, 149 – 189) Fighting crime on an international scale has always encounter serious difficulties. Criminals were not limited by national borders, which gave them the opportunity to escape abroad after the crime – where they could allude collaboration with criminals from other countries, make up various agreements and criminal associations, operating in more than one country. Over time, the concept of money laundering emerged, i.e creating the possibility of using financial resources from crime in a legitimate way, on the other hand, the powers of the police, law enforcement and justice authorities are limited to the territory of the state. It can be thus concluded that both political divisions between countries, as well as borders and territorial sovereignty were the major obstacles for effective crime fighting. The first attempts to establish international cooperation in the fight against crime dates back to the second half of the eighteenth century, those were bilateral agreements. The first international agreement was concluded in 1888, by Austria, Belgium and the Netherlands - it concerned the exchange of information on criminals operating on their territories. In 1956 INTERPOL - International Criminal Police Organization was established, which currently has 186 members (Wawrzyk, 2009, 32-35). The territories of the Member States of the European Union make up the Area of Freedom, Security and Justice (AFSJ), which sets out the principles of police and judicial cooperation in criminal matters. Security issues are the sole responsibility of the European Union. The provisions of the Treaty on AFSJ do not affect the exercise by Member States their obligations to maintain public order and internal security. Member States may, on their own responsibility, organize mutual cooperation of the relevant departments or bodies responsible for ensuring an adequate level of national security.

## The EU institutions in Area of Freedom, Security and Justice

Institutions and agencies with general and specialized competences, whose activities have been clearly defined operate under ASFJ (Antczak, 2011, 73-75).

**Institutions of general competence:** the European Council, the Council, the European Commission, the European Parliament, the Ombudsman, the Court of Justice, the Court of Auditors.

**The European Council** is the highest-ranking political authority, that provides political orientations, inspires directions of development, provides a forum for consultation and dispute settlement. The European Council defines the directions of the strategic guidelines for legislative and operational planning in AFSJ. The Council, irrespective of legislative functions, together with the European Parliament has powers of control and coordination.

**The European Commission** has legislative initiative.

**The European Parliament**, together with the Council acts as a legislator. EP does not provide law.

**Ombudsman** accepts complaints of citizens and legal persons against the institutions operating in the AFSJ and investigates in these matters.

**The European Court of Justice** may issue a ruling on the validity of the legislation.

**European Court of Auditors** has control over the implementation of the EU budget.

Institutions with specific competence: EUROPOL, CEPOL, Eurojust, Frontex, European Monitoring Centre for Drugs and Drug Addiction, OLAF, The European Union Agency for Fundamental Rights, FRA, the European Judicial Network in criminal matters and liaison magistrates.

**EUROPOL** - European Police Office has 27 members. From 01 October 1998 the Convention on EUROPOL is applicable, from 1 November 2004 Poland gained full membership of EUROPOL. EUROPOL tasks are to support national law enforcement agencies and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest of EU. Its activity is based on a system of Europol Information, TECS (The Europol Computer System) - an information system that allows to locate the desired information.

Scope of activities:

- the collection, storage, processing, analysis and exchange of information forwarded by the authorities of the Member States, third countries or bodies;
- the coordination, organization and implementation of investigative and operational action carried out jointly with the competent authorities of the Member States or in joint investigative teams with EUROJUST.

The scope of EUROPOL's competences are:

- Crimes against life, health and personal freedom (murder, trafficking of human tissues and organs of the body, extortion, kidnapping, racism, xenophobia),
- Offences against public property and personal property (robbery, trafficking and smuggling of cultural property, fraud, blackmail and extortion, counterfeiting and pirate trade of products, counterfeiting of money and other means of payment, computer crime),
- Illicit trafficking and destruction of the environment (illicit trafficking of weapons, ammunition and explosives, illicit trafficking of endangered plant species and varieties, environmental crime, illicit trafficking of hormonal substances) (Brzęk, 2009, 248 – 252).

**CEPOL** - European Police College - is a network consisting of national institutions for trainings of police officers. CEPOL organizes training for senior officers and specialized trainings, conducts harmonization of training programs in the field of cross-border

cooperation, disseminate experiences and research results acquired by the individual national police.

**EUROJUST** - the European Union's Judicial Cooperation Unit. Its primary objective is to promote coordination between the competent authorities of the Member States, coordinate cross-border investigations, exchange of information and coordination of joint investigation teams (Sitek, 2012, 477-498).

**European Judicial Network** in criminal cases serves as a forum for networking and provide information for legal aid.

**FRONTEX** - European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union. Its task is to facilitate the use of external border management measures and coordination of activities of Member States in this respect, keeping a uniform and high level of border control. Frontex coordinates the operational cooperation between the institutions of border protection, provides training, technical support and organizes joint activities.

**EMCDDA** - European Monitoring Centre for Drugs and Drug Addiction provides Member States and EU institutions with objective, reliable and comparable information. Center collects and analyzes data on drugs, as well as methods of their production and distribution, conducts research and implements pilot programs to combat drug abuse.

**OLAF** - European Anti-Fraud Office operates within the European Commission and fulfills its role in the fight against fraud, corruption and any other illegal activities affecting the financial interests of the EU.

**FRA** - European Union Agency for Fundamental Rights, its aim is to control the compliance of the fundamental rights of the Member States, as well as study the phenomena of racism and xenophobia. FRA takes measures to reduce these effects.



# **XIII**

## **Threats of Schengen Agreement**



# **The genesis and nature of the Schengen Agreement**

The Schengen Agreement is a treaty signed near the town of Schengen in Luxembourg on 14 June 1985. The signatories were France, Germany, Belgium, Luxembourg and the Netherlands. The prototype of the Schengen Agreement was an agreement taken in Saarbrücken on 13 July 1984 between the Federal Republic of Germany and France. This treaty was named 'Schengen Agreement' ([www.europa.eu](http://www.europa.eu)).

The nature of Schengen Agreement is:

- reduction of border controls for visual surveillance by border guards,
- the introduction of joint border posts and permission for border areas residents to cross the border at any time and place,
- the abolition of certain forms of custom and technical control assistance in freight traffic,
- replacement of controls on internal border by external border controls,
- strengthening cooperation of police,
- harmonizing visa and asylum policy,
- liberalization of customs policy,
- changing the procedure of clearance of goods by road, etc.

## **Schengen Area**

Currently, the Schengen area includes the following European countries:

- 22 European Union (EU) Member States: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Holland, Greece, Spain, Lithuania, Luxembourg, Latvia, Malta, Poland, Portugal, Slovakia, Slovenia, Sweden, Hungary, Italy,
- and associated 3 non-member countries: Iceland, Norway and Switzerland.
- Member States, which still are outside Schengen Area are Great Britain and Ireland.

Whereas they may use some regulations of police and court cooperation in penal cases ([www.mswia.gov.pl](http://www.mswia.gov.pl))

Area, on which border controls were abolished on internal border and introduced uniform principles of border control is named Schengen Area.

## **Threats of countries – signatories of Schengen Agreement**

According to guidelines of Agreement ability of economy development of countries of Schengen Area increased. That treaty allows better integration of citizens of Member State. The abolition of controls on the administrative borders between particular members of the Schengen Area gave free opportunity to citizens of the Member States as well as third-country nationals to cross the area in any place and at any time, and liquidated the need to wait for clearance - and thus a shortened travel time very much. It should be remembered that these facilities also have their bad sides, since the opening of borders simplified moving freely within the countries in the Schengen Area by immigrants, criminal gangs and terrorist organizations. In particular, in very severe economic crisis time - intense seems to be the number of immigrants from African countries and the wave of crimes carried out by them on Old Continent. Therefore, some Schengen-countries wish to restore the control on its borders. An example would be Norway and Denmark, which stated that will permanently restore customs controls at its frontiers with Germany and Sweden in order to combat illegal immigration and organized crime. Italian Minister Roberto Maroni announced the introduction of the Italian border controls for migrants from Romania, who are leading in all Italian statistics of crime. Also France, which through Italy is flooded by the wave of immigrants from Tunisia. And Germany, where "not become silent echo of statements of mayor of the border town Guben to return to the Polish border control" due to an increase of 250% of the crimes from the time when Poland in 2007, entered the

Schengen Area. Closing the borders between Schengen members may in fact reduce the flow of illegal immigrants and crime statistics, however according to analysts, may lead to disintegration of the European Union and seriously harm the economies of Member States - what, while the current global economic crisis could threaten the collapse of the entire European project - while the first phase of that drama sparked America, the second sparked - currency crisis in the European Union. It can be anticipated that the EU will cope when one country goes bankrupt, e.g. Greece. But it will not survive bankruptcies of several countries - and the louder it is speaking that Portugal, Ireland, Spain and Italy are threatened with bankruptcy. Then not only the currency union, and euro area will fall down but certainly the whole European Union. "In such a situation, from the ruins, will raise new Europe, undeniably selfish and irresponsible, and above all looking for a new order". In the new order in the light of day, probably surfaced the demons of the past - in the form of nationalism, chauvinism, revanchism, intolerance and aggressiveness. Media inform about the excesses of anti-Semitic, anti-Roma and anti-Muslim, that occur in different countries of the European Community, what prove that all these qualities lie dormant in the subconscious of European nations.

## **The fight against illegal immigration, criminal and terrorist groups in the area of the Schengen Agreement**

One way to combat the illegal immigrants, organized crime and terrorist groups is to seal the external borders of the Agreement by increasing the manpower of border guards and the installation of modern equipment e.g. radar or thermo-vision. Until now, despite the fact that the identity check is not performed within the borders of the Schengen Agreement, may be carried out randomly, throughout the Schengen Area. In certain situations, after the prior decision of the Council of the European Union, it is also possible temporary reinstatement of controls internal border. Schengen Borders Code provides for the reintroduction of checks at internal borders only when there is a serious threat to public order or internal security. In addition, the opening of borders between members of the Schengen Area forced on the authorities responsible for safety: improving the functioning of legal assistance in extradition and criminal matters, cooperation in combating drug trafficking, common rules for the possession and trafficking of firearms and ammunition, and transport and movement of goods. Also the creation and functioning of the Schengen Information System (SIS), including the protection of personal data, principles and means for police cooperation. Close cooperation improves the level of services of public security in the Schengen Zone. A particularly useful tool proves to be SIS with some of the best working practices developed. Joint training and exchange of experiences have contributed to better equip police and border guards to carry out their duties.

"The Schengen Information System (SIS) is a common, electronic database of the wanted persons and objects, composed of national sections (N.SIS) and CPU - central unit - server located in Strasbourg (C.SIS). Data entered into the system by one Member State are available to departments and bodies of other countries in the necessary extent." ([www.policja.pl](http://www.policja.pl))

SIS system provides the exchange of information between services responsible for border protection, visa issuance, public safety. Now the work last of creating a modern version of the Schengen Information System, called SISone4All.

27 May 2005 in Prüm in Germany, seven countries of the European Union such as Germany, Spain, France, Luxembourg, Netherlands, Austria and Belgium, signed the Convention on strengthening cooperation to combat terrorism, transnational crime and illegal migration. This was an additional document, designed to improve an earlier agreement. The idea behind this convention was to provide a reciprocal on-line access rights

to databases of DNA, dactyloscopy data and vehicle registration. "In 2007 at the initiative of Germany, the Treaty of Prüm provisions were included in the agenda of the European Union. Thus began the legislative process under EU law. The purpose was one: to create the automated system of information exchange between EU countries, while maintaining all safety rules and respect for basic human rights" (Policja 997, November 2009).

All Member States in order to fulfil the operational requirements specified in the Convention implementing the Schengen, are forced to establish their 'National SIRENE Bureaux'. SIRENE stands for Supplementary Information Request at the National Entry and outlines the main task of the "SIRENE Bureaux" established in all Schengen States.

SIRENE is an office that works 7 days a week, 24 hours a day to, as soon as possible, give respond to all requests from other Member States, sent through their own offices Bureaux. Exchange of information between the offices is through the exchange of supplementary data entries entered into the SIS by using electronic forms.

According to the decision of the Minister competent of interior and administration of 9 August 2004 - SIRENE Bureau tasks in Poland are implemented by the police.

Polish SIRENE Bureau (Bureaux PL) became fully operational on 10 September 2007 Staff on duty Bureau of SIRENE PL is performed in cooperation with the Border Guard officers, in close cooperation with the duty officers from Interpol and Europol ([www.policja.pl](http://www.policja.pl)). Cooperation between services of countries of the Schengen Agreement is not limited to sharing experience and information, but can also include cross-border cooperation in the pursuit, and the observation of cross border - which is conducting further activities within the territory of the foreign country. All Member States, which joined the Schengen area were obliged to determine the procedures for applying the cross-border pursuit for all the neighbouring EU Member States. Time and the territorial scope of the cross-border pursuit is determined on the basis of a unilateral declaration, not subject to negotiation with the neighbouring country. Poland joining the Schengen, is required to submit (in accordance with art. 41 of the Convention implementing the Schengen Agreement) declaration of the procedures for applying the cross-border pursuit of the neighbouring countries such as Germany, Czech Republic, Slovakia and Lithuania. Officers of one Contracting Party who are pursuing in their country a person suspected of committing crimes i.e. against life and health shall be authorized to continue pursuit in the territory of other Contracting Party, without necessity of obtaining the consent. This consent is not required for the particular situation, that is when it is not possible to notify the competent authorities of another Contracting Party prior to entry into that territory, or when these authorities are not able to reach the scene to take over the pursuit. At the latest, at moment of crossing the border, the pursuing officers are obligated to notify the competent authorities of the Contracting Party in whose territory the pursuit is to take place. Pursuit immediately cease when the Contracting Party demand that.

Another 'tool' of cooperation between Member States' police forces is the cross-border observation. Observation is one of the inquiry procedures and involves making deliberate observations of people, objects and phenomena. The police forces of Schengen members, who, under the pre-trial, conduct covert surveillance of a person suspected of involvement in the crime eligible for extradition, are entitled to follow-up on the territory of another country - parties, if that state has agreed to cross-border observation, which cross the frontier of a Member State. Upon demand, forces should immediately forward observation to officers of the state - the territory of which the observation takes place. A legal instrument - Convention implementing the Schengen Convention establishes the principle that the object of observation can only be a person suspected of taking part in an extraditable offense, whereas the Council Decision (2003/725/JHA) of 2 October 2003 extends the opportunity to observe also other person - i.e. allows to observe people who are not suspected of direct involvement in the crime, but their surveillance may lead police to the person responsible for it.

According to the guidelines of the Agreement increased the opportunity for economic development countries in the Schengen Zone. It also allowed for better integration between citizens of states parties, while increasing safety. Provisions of the Agreement provide greater scope to the services responsible for our safety. Since the introduction of rules that apply to working together with police units of the European Union, increased crime detection and increase the number of detained persons who have fled beyond the borders of the country where the offense committed. Let's hope that every year number of the advantages will increased and the voices of opponents became silent.

## Summary

Security is an important part of life and functioning of each person. Changes over the centuries cause transformation and evolution in that sphere. At the same time the need for security, is essential to every human being. Therefore, the essence of national security is the process or condition which enables the functioning of each country in these fields, which allow the survival, development and freedom to pursue national interests, mainly by addressing the challenges, use of opportunities and reduce risks. Security in the philosophical approach, is a natural the good of a human, inclining to seek for it, create and build capabilities to ensure the existence and development of human life. Security is an important category for both modern trends looking for universalistic axiomatic justifications of the globalizing world, as well as for systems preferring the idea of diversity, pluralism, decentration to achieve the subjectivity of every human individual. (Stefanowicz, J. 1996. p. 56). The Constitution fo the Republic of Poland is not a solution to all issues, but at least it identifies responsibilities of key people in the country and the relevant agencies and institutions and its citizens in the area of security.

Characteristics of the security system of the state is the transparency of interaction between the system components and unity of aims, which allow for the smooth functioning in an emergency situation and that it take full advantage of the benefits of the specialization.

The consequence of the characteristics of the scheme are coordinating functions in the state security system located at all levels of the organizational hierarchy. Decentralization characterizes presented system in the areas of security and public safety. On the other hand issues concerning constitutional order are characterized by centralization. Both decentralization and centralization allow to maintain system stability. If we consider European and Polish challenges and risks we can formulate the following conclusions:

- the strategy presents a holistic set of civil and military, national and transnational challenges and threats,
- European Strategy authors emphasize different types of risk and possibility of its potential occurrence, not the geographical distribution,
- new approach covering other fields of threats, mainly external, took place, which can be quickly identified. (Słomczyńska, I. 2007. s. 249 – 250).

In the era of various security threats of the countries, it is clear that the choice of individual defense can not succeed. Therefore it is obvious that participation in political - defensive alliances –on the basis of mutual respect for countries belonging to the alliance, according to international law, can guarantee safety. Security of Member States and their foreign policy are fundamental, but in the field of defense the principle of unanimity in decision making must be applied. The strategic objective of poland is to provide favorable and safe conditions for realization of national interests by eliminating external and internal threats, reducing risk, and appropriate estimation of challenges undertaken and skillful use of emerging opportunities.

Everything that we do is a fulfillment of the constitutional obligation towards the nation and the state.



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# **Attehements**



# 1 Charter of the United Nations

The initiative on the establishment of the international organization that would preserve the post-war international order, appeared among the countries of the anti-Hitler coalition, including Poland. An expression of that, there were two documents: the Atlantic Charter of August 1941, signed by the United States and the United Kingdom, and the United Nations Declaration adopted by the 26 allied countries on 1 January 1942, these documents have become the starting point for the deliberations of the International Conference in April 1945, in San Francisco, whose aim was the elaboration of the Statute of the organisation. The work of the conference ended June 26, 1945. The conference produced a document called the United Nations Charter, which was signed by representatives of 50 countries signatories of the present conference.

The United Nations Charter has become and is to date the Statute of the United Nations defines its objectives, principles, membership and institutional structure. The card provides the foundation of international relations as the most important document of international law. The provisions of all international agreements concluded by the Member States of the UN must be in accordance with its provisions, in fact, for this reason it is sometimes called (colloquially) the Constitution in the system of sources of international law.

Charter sets out the basic rules governing the functioning of the United Nations, which include:

- sovereign equality of all its members - understood as the equality of all states under international law;
- Performance by the signatories obligations under the Charter;
- settlement of international disputes by peaceful means;
- refrain from using force or threatening to use - this principle is of fundamental importance for ensuring international peace

## UNITED NATIONS CHARTER

### PREAMBLE

#### WE THE PEOPLES OF THE UNITED NATIONS DETERMINED

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and  
to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and  
to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and  
to promote social progress and better standards of life in larger freedom,

#### AND FOR THESE ENDS

to practice tolerance and live together in peace with one another as good neighbours, and  
to unite our strength to maintain international peace and security, and  
to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and  
to employ international machinery for the promotion of the economic and social advancement of all peoples,

#### HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

## CHAPTER I PURPOSES AND PRINCIPLES

### Article 1

The Purposes of the United Nations are:

To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;

To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and

To be a centre for harmonizing the actions of nations in the attainment of these common ends.

### Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

The Organization is based on the principle of the sovereign equality of all its Members.

All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.

All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

## CHAPTER II: MEMBERSHIP

### Article 3

The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of 1 January 1942, sign the present Charter and ratify it in accordance with Article 110.

### Article 4

Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.

The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

#### Article 5

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

#### Article 6

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

### CHAPTER III: ORGANS

#### Article 7

There are established as principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice and a Secretariat.

Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

#### Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

### CHAPTER IV: THE GENERAL ASSEMBLY

#### COMPOSITION

#### Article 9

The General Assembly shall consist of all the Members of the United Nations. Each Member shall have not more than five representatives in the General Assembly.

#### FUNCTIONS and POWERS

#### Article 10

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

#### Article 11

The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.

The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.

## Article 12

While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

## Article 13

The General Assembly shall initiate studies and make recommendations for the purpose of: a. promoting international co-operation in the political field and encouraging the progressive development of international law and its codification; b. promoting international co-operation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

The further responsibilities, functions and powers of the General Assembly with respect to matters mentioned in paragraph 1 (b) above are set forth in Chapters IX and X.

## Article 14

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

## Article 15

The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.

The General Assembly shall receive and consider reports from the other organs of the United Nations.

## Article 16

The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

## Article 17

The General Assembly shall consider and approve the budget of the Organization.

The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.

The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

## VOTING

### Article 18

Each member of the General Assembly shall have one vote.

Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with

paragraph 1 (c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.

Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

#### Article 19

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

### PROCEDURE

#### Article 20

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.

#### Article 21

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

#### Article 22

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

## CHAPTER V: THE SECURITY COUNCIL

### COMPOSITION

#### Article 23

The Security Council shall consist of fifteen Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect ten other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members after the increase of the membership of the Security Council from eleven to fifteen, two of the four additional members shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

Each member of the Security Council shall have one representative.

### FUNCTIONS and POWERS

#### Article 24

In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council

for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

#### Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

#### Article 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

### VOTING

#### Article 27

Each member of the Security Council shall have one vote.

Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members.

Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

### PROCEDURE

#### Article 28

The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.

The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.

The Security Council may hold meetings at such places other than the seat of the Organization as in its judgment will best facilitate its work.

#### Article 29

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

#### Article 30

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

#### Article 31

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

#### Article 32

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

## CHAPTER VI: PACIFIC SETTLEMENT OF DISPUTES

### Article 33

The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

### Article 34

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

### Article 35

Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

### Article 36

The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

### Article 37

Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

### Article 38

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

## CHAPTER VII: ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

### Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

### Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or

desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

#### Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

#### Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

#### Article 43

All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.

Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.

The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

#### Article 44

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

#### Article 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

#### Article 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

#### Article 47

There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be

associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.

#### Article 48

The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

#### Article 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

#### Article 50

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

#### Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-Defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-Defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

### CHAPTER VIII: REGIONAL ARRANGEMENTS

#### Article 52

Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

This Article in no way impairs the application of Articles 34 and 35.

#### Article 53

The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements

directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.

The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

Article 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

## CHAPTER IX: INTERNATIONAL ECONOMIC AND SOCIAL CO-OPERATION

Article 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

higher standards of living, full employment, and conditions of economic and social progress and development;

solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and

universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56

All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.

Article 57

The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

Article 58

The Organization shall make recommendations for the co-ordination of the policies and activities of the specialized agencies.

Article 59

The Organization shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

Article 60

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

## CHAPTER X: THE ECONOMIC AND SOCIAL COUNCIL COMPOSITION

Article 61

The Economic and Social Council shall consist of fifty-four Members of the United Nations elected by the General Assembly.

Subject to the provisions of paragraph 3, eighteen members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.

omitted

Each member of the Economic and Social Council shall have one representative.

## FUNCTIONS and POWERS

### Article 62

The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly to the Members of the United Nations, and to the specialized agencies concerned.

It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.

It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.

It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

### Article 63

The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.

It may co-ordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

### Article 64

The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.

It may communicate its observations on these reports to the General Assembly.

### Article 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

### Article 66

The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly.

It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of specialized agencies.

It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.

## VOTING

### Article 67

Each member of the Economic and Social Council shall have one vote.

Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

## PROCEDURE

### Article 68

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

Article 69 omitted

Article 70 omitted

Article 71 omitted

Article 72 omitted

## CHAPTER XI

DECLARATION REGARDING NON-SELF-GOVERNING TERRITORIES - omitted

CHAPTER XII: INTERNATIONAL TRUSTEESHIP SYSTEM - omitted

CHAPTER XIII: THE TRUSTEESHIP COUNCIL – omitted

## CHAPTER XIV: THE INTERNATIONAL COURT OF JUSTICE

### Article 92

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

### Article 93

All Members of the United Nations are ipso facto parties to the Statute of the International Court of Justice.

A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

### Article 94

Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

### Article 95

Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

### Article 96

The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

## CHAPTER XV: THE SECRETARIAT

### Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

### Article 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

### Article 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

#### Article 100

In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

#### Article 101

The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

### CHAPTER XVI: MISCELLANEOUS PROVISIONS

#### Article 102

Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.

No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

#### Article 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

#### Article 104

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

#### Article 105

The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.

Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connexion with the Organization.

The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

### CHAPTER XVII: TRANSITIONAL SECURITY ARRANGEMENTS

Article 106 - omitted

Article 107 – omitted

### CHAPTER XVIII: AMENDMENTS

#### Article 108

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General

Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.

Article 109

A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any nine members of the Security Council. Each Member of the United Nations shall have one vote in the conference.

Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations including all the permanent members of the Security Council.

3. omitted

## CHAPTER XIX: RATIFICATION AND SIGNATURE

Article 110

The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.

The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization.

omitted

The states signatory to the present Charter which ratify it after it has come into force will become original Members of the United Nations on the date of the deposit of their respective ratifications.

Article 111

The present Charter, of which the Chinese, French, Russian, English, and Spanish texts are equally authentic, shall remain deposited in the archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory states.

IN FAITH WHERE OF the representatives of the Governments of the United Nations have signed the present Charter. DONE at the city of San Francisco the twenty-sixth day of June, one thousand nine hundred and forty-five.

## 2 Consolidated Version of The Treaty on European Union

### **PREAMBLE**

HIS MAJESTY THE KING OF THE BELGIANS, HER MAJESTY THE QUEEN OF DENMARK, THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY, THE PRESIDENT OF IRELAND, THE PRESIDENT OF THE HELLENIC REPUBLIC, HIS MAJESTY THE KING OF SPAIN, THE PRESIDENT OF THE FRENCH REPUBLIC, THE PRESIDENT OF THE ITALIAN REPUBLIC, HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG, HER MAJESTY THE QUEEN OF THE NETHERLANDS, THE PRESIDENT OF THE PORTUGUESE REPUBLIC, HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND.

**RESOLVED** to mark a new stage in the process of European integration undertaken with the establishment of the European Communities,

**DRAWING INSPIRATION** from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law,

**RECALLING** the historic importance of the ending of the division of the European continent and the need to create firm bases for the construction of the future Europe,

**CONFIRMING** their attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law,

**CONFIRMING** their attachment to fundamental social rights as defined in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers,

**DESIRING** to deepen the solidarity between their peoples while respecting their history, their culture and their traditions,

**DESIRING** to enhance further the democratic and efficient functioning of the institutions so as to enable them better to carry out, within a single institutional framework, the tasks entrusted to them,

**RESOLVED** to achieve the strengthening and the convergence of their economies and to establish an economic and monetary union including, in accordance with the provisions of this Treaty and of the Treaty on the Functioning of the European Union, a single and stable currency,

**DETERMINED** to promote economic and social progress for their peoples, taking into account the principle of sustainable development and within the context of the accomplishment of the internal market and of reinforced cohesion and environmental protection, and to implement policies ensuring that advances in economic integration are accompanied by parallel progress in other fields,

**RESOLVED** to establish a citizenship common to nationals of their countries,

**RESOLVED** to implement a common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence in accordance with the provisions of Article 42, thereby reinforcing the European identity and its independence in order to promote peace, security and progress in Europe and in the world,

**RESOLVED** to facilitate the free movement of persons, while ensuring the safety and security of their peoples, by establishing an area of freedom, security and justice, in accordance with the provisions of this Treaty and of the Treaty on the Functioning of the European Union,

**RESOLVED** to continue the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity,

**IN VIEW** of further steps to be taken in order to advance European integration, **HAVE DECIDED** to establish a European Union and to this end have designated as their Plenipotentiaries:  
**WHO**, having exchanged their full powers, found in good and due form, have agreed as follows.

## **TITLE I COMMON PROVISIONS**

### *Article 1*

(ex Article 1 TEU) ( 1 )

By this Treaty, the **HIGH CONTRACTING PARTIES** establish among themselves a **EUROPEAN UNION**, hereinafter called ‘the Union’, on which the Member States confer competences to attain objectives they have in common.

This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen.

The Union shall be founded on the present Treaty and on the Treaty on the Functioning of the European Union (hereinafter referred to as ‘the Treaties’). Those two Treaties shall have the same legal value. The Union shall replace and succeed the European Community.

( 1 ) These references are merely indicative. For more ample information, please refer to the tables of equivalences between the old and the new numbering of the Treaties.

### *Article 2*

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

### *Article 3*

(ex Article 2 TEU)

1. The Union’s aim is to promote peace, its values and the well-being of its peoples.
2. The Union shall offer its citizens an area of freedom, security and justice without internal frontiers, in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime.
3. The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.

It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.

It shall promote economic, social and territorial cohesion, and solidarity among Member States.

It shall respect its rich cultural and linguistic diversity, and shall ensure that Europe’s cultural heritage is safeguarded and enhanced.

4. The Union shall establish an economic and monetary union whose currency is the euro.
5. In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of

international law, including respect for the principles of the United Nations Charter.

6. The Union shall pursue its objectives by appropriate means commensurate with the competences which are conferred upon it in the Treaties.

#### *Article 4*

1. In accordance with Article 5, competences not conferred upon the Union in the Treaties remain with the Member States.

2. The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State.

3. Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties. The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union.

The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives.

#### *Article 5*

(ex Article 5 TEC)

1. The limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.

2. Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States.

3. Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

The institutions of the Union shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality. National Parliaments ensure compliance with the principle of subsidiarity in accordance with the procedure set out in that Protocol.

4. Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties.

The institutions of the Union shall apply the principle of proportionality as laid down in the Protocol on the application of the principles of subsidiarity and proportionality.

#### *Article 6*

(ex Article 6 TEU)

1. The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties.

The provisions of the Charter shall not extend in any way the competences of the Union as defined in the Treaties.

The rights, freedoms and principles in the Charter shall be interpreted in accordance with the general provisions in Title VII of the Charter governing its interpretation and application and with due regard to the explanations referred to in the Charter, that set out the sources of those provisions.

2. The Union shall accede to the European Convention for the Protection of Human Rights

and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Treaties.

3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.

*Article 7 – omitted*

*Article 8*

1. The Union shall develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation.

2. For the purposes of paragraph 1, the Union may conclude specific agreements with the countries concerned. These agreements may contain reciprocal rights and obligations as well as the possibility of undertaking activities jointly. Their implementation shall be the subject of periodic consultation.

## TITLE II

### **PROVISIONS ON DEMOCRATIC PRINCIPLES**

*Article 9*

In all its activities, the Union shall observe the principle of the equality of its citizens, who shall receive equal attention from its institutions, bodies, offices and agencies. Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship.

*Article 10*

1. The functioning of the Union shall be founded on representative democracy.

2. Citizens are directly represented at Union level in the European Parliament.

Member States are represented in the European Council by their Heads of State or Government and in the Council by their governments, themselves democratically accountable either to their national Parliaments, or to their citizens.

3. Every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen.

4. Political parties at European level contribute to forming European political awareness and to expressing the will of citizens of the Union.

*Article 11- omitted*

*Article 12*

National Parliaments contribute actively to the good functioning of the Union:

(a) through being informed by the institutions of the Union and having draft legislative acts of the Union forwarded to them in accordance with the Protocol on the role of national Parliaments in the European Union;

(b) by seeing to it that the principle of subsidiarity is respected in accordance with the procedures provided for in the Protocol on the application of the principles of subsidiarity and proportionality;

(c) by taking part, within the framework of the area of freedom, security and justice, in the evaluation mechanisms for the implementation of the Union policies in that area, in accordance with Article 70 of the Treaty on the Functioning of the European Union, and through being involved in the political monitoring of Europol and the evaluation of Eurojust's activities in accordance with Articles 88 and 85 of that Treaty;

(d) by taking part in the revision procedures of the Treaties, in accordance with Article 48 of this Treaty;

(e) by being notified of applications for accession to the Union, in accordance with Article 49 of this Treaty;

(f) by taking part in the inter-parliamentary cooperation between national Parliaments and with the European Parliament, in accordance with the Protocol on the role of national

Parliaments in the European Union.

### TITLE III

## PROVISIONS ON THE INSTITUTIONS

### *Article 13*

1. The Union shall have an institutional framework which shall aim to promote its values, advance its objectives, serve its interests, those of its citizens and those of the Member States, and ensure the consistency, effectiveness and continuity of its policies and actions. The Union's institutions shall be:

- the European Parliament,
- the European Council,
- the Council,
- the European Commission (hereinafter referred to as 'the Commission'),
- the Court of Justice of the European Union,
- the European Central Bank,
- the Court of Auditors.

2. Each institution shall act within the limits of the powers conferred on it in the Treaties, and in conformity with the procedures, conditions and objectives set out in them. The institutions shall practice mutual sincere cooperation.

3. The provisions relating to the European Central Bank and the Court of Auditors and detailed provisions on the other institutions are set out in the Treaty on the Functioning of the European Union.

4. The European Parliament, the Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity.

### *Article 14*

1. The European Parliament shall, jointly with the Council, exercise legislative and budgetary functions. It shall exercise functions of political control and consultation as laid down in the Treaties. It shall elect the President of the Commission.

2. The European Parliament shall be composed of representatives of the Union's citizens. They shall not exceed seven hundred and fifty in number, plus the President. Representation of citizens shall be degressively proportional, with a minimum threshold of six members per Member State. No Member State shall be allocated more than ninety-six seats.

The European Council shall adopt by unanimity, on the initiative of the European Parliament and with its consent, a decision establishing the composition of the European Parliament, respecting the principles referred to in the first subparagraph.

3. The members of the European Parliament shall be elected for a term of five years by direct universal suffrage in a free and secret ballot.

4. The European Parliament shall elect its President and its officers from among its members.

### *Article 15*

1. The European Council shall provide the Union with the necessary impetus for its development and shall define the general political directions and priorities thereof. It shall not exercise legislative functions.

2. The European Council shall consist of the Heads of State or Government of the Member States, together with its President and the President of the Commission. The High Representative of the Union for Foreign Affairs and Security Policy shall take part in its work.

3. The European Council shall meet twice every six months, convened by its President. When the agenda so requires, the members of the European Council may decide each to be assisted by a minister and, in the case of the President of the Commission, by a member of the Commission. When the situation so requires, the President shall convene a special meeting of the European Council.

4. Except where the Treaties provide otherwise, decisions of the European Council shall be taken by consensus.

5. The European Council shall elect its President, by a qualified majority, for a term of two and a half years, renewable once. In the event of an impediment or serious misconduct, the European Council can end the President's term of office in accordance with the same procedure.

6. The President of the European Council:

(a) shall chair it and drive forward its work;

(b) shall ensure the preparation and continuity of the work of the European Council in cooperation with the President of the Commission, and on the basis of the work of the General Affairs Council;

(c) shall endeavour to facilitate cohesion and consensus within the European Council;

(d) shall present a report to the European Parliament after each of the meetings of the European Council.

The President of the European Council shall, at his level and in that capacity, ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy.

The President of the European Council shall not hold a national office.

#### *Article 16*

1. The Council shall, jointly with the European Parliament, exercise legislative and budgetary functions. It shall carry out policy-making and coordinating functions as laid down in the Treaties.

2. The Council shall consist of a representative of each Member State at ministerial level, who may commit the government of the Member State in question and cast its vote.

3. The Council shall act by a qualified majority except where the Treaties provide otherwise.

4. As from 1 November 2014, a qualified majority shall be defined as at least 55 % of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65 % of the population of the Union.

A blocking minority must include at least four Council members, failing which the qualified majority shall be deemed attained.

The other arrangements governing the qualified majority are laid down in Article 238(2) of the Treaty on the Functioning of the European Union.

5. The transitional provisions relating to the definition of the qualified majority which shall be applicable until 31 October 2014 and those which shall be applicable from 1 November 2014 to 31 March 2017 are laid down in the Protocol on transitional provisions.

6. The Council shall meet in different configurations, the list of which shall be adopted in accordance with Article 236 of the Treaty on the Functioning of the European Union.

The General Affairs Council shall ensure consistency in the work of the different Council configurations. It shall prepare and ensure the follow-up to meetings of the European Council, in liaison with the President of the European Council and the Commission.

The Foreign Affairs Council shall elaborate the Union's external action on the basis of strategic guidelines laid down by the European Council and ensure that the Union's action is consistent.

7. A Committee of Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council.

8. The Council shall meet in public when it deliberates and votes on a draft legislative act. To this end, each Council meeting shall be divided into two parts, dealing respectively with deliberations on Union legislative acts and non-legislative activities.

9. The Presidency of Council configurations, other than that of Foreign Affairs, shall be held by Member State representatives in the Council on the basis of equal rotation, in accordance with the conditions established in accordance with Article 236 of the Treaty on

the Functioning of the European Union.

*Article 17*

1. The Commission shall promote the general interest of the Union and take appropriate initiatives to that end. It shall ensure the application of the Treaties, and of measures adopted by the institutions pursuant to them. It shall oversee the application of Union law under the control of the Court of Justice of the European Union. It shall execute the budget and manage programmes. It shall exercise coordinating, executive and management functions, as laid down in the Treaties. With the exception of the common foreign and security policy, and other cases provided for in the Treaties, it shall ensure the Union's external representation. It shall initiate the Union's annual and multiannual programming with a view to achieving interinstitutional agreements.

2. Union legislative acts may only be adopted on the basis of a Commission proposal, except where the Treaties provide otherwise. Other acts shall be adopted on the basis of a Commission proposal where the Treaties so provide.

3. The Commission's term of office shall be five years.

The members of the Commission shall be chosen on the ground of their general competence and European commitment from persons whose independence is beyond doubt.

In carrying out its responsibilities, the Commission shall be completely independent. Without prejudice to Article 18(2), the members of the Commission shall neither seek nor take instructions from any Government or other institution, body, office or entity. They shall refrain from any action incompatible with their duties or the performance of their tasks.

4. The Commission appointed between the date of entry into force of the Treaty of Lisbon and 31 October 2014, shall consist of one national of each Member State, including its President and the High Representative of the Union for Foreign Affairs and Security Policy who shall be one of its Vice- Presidents.

5. As from 1 November 2014, the Commission shall consist of a number of members, including its President and the High Representative of the Union for Foreign Affairs and Security Policy, corresponding to two thirds of the number of Member States, unless the European Council, acting unanimously, decides to alter this number.

The members of the Commission shall be chosen from among the nationals of the Member States on the basis of a system of strictly equal rotation between the Member States, reflecting the demographic and geographical range of all the Member States. This system shall be established unanimously by the European Council in accordance with Article 244 of the Treaty on the Functioning of the European Union.

6. The President of the Commission shall:

(a) lay down guidelines within which the Commission is to work;

(b) decide on the internal organisation of the Commission, ensuring that it acts consistently, efficiently and as a collegiate body;

(c) appoint Vice-Presidents, other than the High Representative of the Union for Foreign Affairs and Security Policy, from among the members of the Commission.

A member of the Commission shall resign if the President so requests. The High Representative of the Union for Foreign Affairs and Security Policy shall resign, in accordance with the procedure set out in Article 18(1), if the President so requests.

7. Taking into account the elections to the European Parliament and after having held the appropriate consultations, the European Council, acting by a qualified majority, shall propose to the European Parliament a candidate for President of the Commission. This candidate shall be elected by the European Parliament by a majority of its component members. If he does not obtain the required majority, the European Council, acting by a qualified majority, shall within one month propose a new candidate who shall be elected by the European Parliament following the same procedure.

The Council, by common accord with the President-elect, shall adopt the list of the other persons whom it proposes for appointment as members of the Commission. They shall be

selected, on the basis of the suggestions made by Member States, in accordance with the criteria set out in paragraph 3, second subparagraph, and paragraph 5, second subparagraph. The President, the High Representative of the Union for Foreign Affairs and Security Policy and the other members of the Commission shall be subject as a body to a vote of consent by the European Parliament. On the basis of this consent the Commission shall be appointed by the European Council, acting by a qualified majority.

8. The Commission, as a body, shall be responsible to the European Parliament. In accordance with Article 234 of the Treaty on the Functioning of the European Union, the European Parliament may vote on a motion of censure of the Commission. If such a motion is carried, the members of the Commission shall resign as a body and the High Representative of the Union for Foreign Affairs and Security Policy shall resign from the duties that he carries out in the Commission.

#### *Article 18*

1. The European Council, acting by a qualified majority, with the agreement of the President of the Commission, shall appoint the High Representative of the Union for Foreign Affairs and Security Policy. The European Council may end his term of office by the same procedure.

2. The High Representative shall conduct the Union's common foreign and security policy. He shall contribute by his proposals to the development of that policy, which he shall carry out as mandated by the Council. The same shall apply to the common security and defence policy.

3. The High Representative shall preside over the Foreign Affairs Council.

4. The High Representative shall be one of the Vice-Presidents of the Commission. He shall ensure the consistency of the Union's external action. He shall be responsible within the Commission for responsibilities incumbent on it in external relations and for coordinating other aspects of the Union's external action. In exercising these responsibilities within the Commission, and only for these responsibilities, the High Representative shall be bound by Commission procedures to the extent that this is consistent with paragraphs 2 and 3.

#### *Article 19*

1. The Court of Justice of the European Union shall include the Court of Justice, the General Court and specialised courts. It shall ensure that in the interpretation and application of the Treaties the law is observed.

Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.

2. The Court of Justice shall consist of one judge from each Member State. It shall be assisted by Advocates-General.

The General Court shall include at least one judge per Member State.

The Judges and the Advocates-General of the Court of Justice and the Judges of the General Court shall be chosen from persons whose independence is beyond doubt and who satisfy the conditions set out in Articles 253 and 254 of the Treaty on the Functioning of the European Union. They shall be appointed by common accord of the governments of the Member States for six years. Retiring Judges and Advocates-General may be reappointed.

3. The Court of Justice of the European Union shall, in accordance with the Treaties:

- (a) rule on actions brought by a Member State, an institution or a natural or legal person;
- (b) give preliminary rulings, at the request of courts or tribunals of the Member States, on the interpretation of Union law or the validity of acts adopted by the institutions;
- (c) rule in other cases provided for in the Treaties.

## **TITLE IV**

### **PROVISIONS ON ENHANCED COOPERATION**

#### *Article 20*

(ex Articles 27a to 27e, 40 to 40b and 43 to 45 TEU and ex Articles 11 and 11a TEC)

1. Member States which wish to establish enhanced cooperation between themselves within the framework of the Union's non-exclusive competences may make use of its institutions and exercise those competences by applying the relevant provisions of the Treaties, subject to the limits and in accordance with the detailed arrangements laid down in this Article and in Articles 326 to 334 of the Treaty on the Functioning of the European Union.

Enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process. Such cooperation shall be open at any time to all Member States, in accordance with Article 328 of the Treaty on the Functioning of the European Union.

2. The decision authorising enhanced cooperation shall be adopted by the Council as a last resort, when it has established that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole, and provided that at least nine Member States participate in it. The Council shall act in accordance with the procedure laid down in Article 329 of the Treaty on the Functioning of the European Union.

3. All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote. The voting rules are set out in Article 330 of the Treaty on the Functioning of the European Union.

4. Acts adopted in the framework of enhanced cooperation shall bind only participating Member States. They shall not be regarded as part of the *acquis* which has to be accepted by candidate States for accession to the Union.

## TITLE V

# GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION AND SPECIFIC PROVISIONS ON THE COMMON FOREIGN AND SECURITY POLICY

## CHAPTER 1

### GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION

#### *Article 21*

1. The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share the principles referred to in the first subparagraph. It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations.

2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:

- (a) safeguard its values, fundamental interests, security, independence and integrity;
- (b) consolidate and support democracy, the rule of law, human rights and the principles of international law;
- (c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;
- (d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;
- (e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade;
- (f) help develop international measures to preserve and improve the quality of the

environment and the sustainable management of global natural resources, in order to ensure sustainable development;

(g) assist populations, countries and regions confronting natural or man-made disasters; and  
(h) promote an international system based on stronger multilateral cooperation and good global governance.

3. The Union shall respect the principles and pursue the objectives set out in paragraphs 1 and 2 in the development and implementation of the different areas of the Union's external action covered by this Title and by Part Five of the Treaty on the Functioning of the European Union, and of the external aspects of its other policies.

The Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy, shall ensure that consistency and shall cooperate to that effect.

#### *Article 22*

1. On the basis of the principles and objectives set out in Article 21, the European Council shall identify the strategic interests and objectives of the Union.

Decisions of the European Council on the strategic interests and objectives of the Union shall relate to the common foreign and security policy and to other areas of the external action of the Union. Such decisions may concern the relations of the Union with a specific country or region or may be thematic in approach. They shall define their duration, and the means to be made available by the Union and the Member States.

The European Council shall act unanimously on a recommendation from the Council, adopted by the latter under the arrangements laid down for each area. Decisions of the European Council shall be implemented in accordance with the procedures provided for in the Treaties.

2. The High Representative of the Union for Foreign Affairs and Security Policy, for the area of common foreign and security policy, and the Commission, for other areas of external action, may submit joint proposals to the Council.

## CHAPTER 2

### SPECIFIC PROVISIONS ON THE COMMON FOREIGN AND SECURITY POLICY

#### SECTION 1

#### COMMON PROVISIONS

#### *Article 23*

The Union's action on the international scene, pursuant to this Chapter, shall be guided by the principles, shall pursue the objectives of, and be conducted in accordance with, the general provisions laid down in Chapter 1.

#### *Article 24*

(ex Article 11 TEU)

1. The Union's competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union's security, including the progressive framing of a common defence policy that might lead to a common defence.

The common foreign and security policy is subject to specific rules and procedures. It shall be defined and implemented by the European Council and the Council acting unanimously, except where the Treaties provide otherwise. The adoption of legislative acts shall be excluded. The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by Member States, in accordance with the Treaties. The specific role of the European Parliament and of the Commission in this area is defined by the Treaties. The Court of Justice of the European Union shall not have jurisdiction with respect to these provisions, with the exception of its jurisdiction to monitor compliance with Article 40 of this Treaty and to review the legality of certain decisions as provided for by the second paragraph of Article 275 of the Treaty on

the Functioning of the European Union.

2. Within the framework of the principles and objectives of its external action, the Union shall conduct, define and implement a common foreign and security policy, based on the development of mutual political solidarity among Member States, the identification of questions of general interest and the achievement of an ever-increasing degree of convergence of Member States' actions.

3. The Member States shall support the Union's external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity and shall comply with the Union's action in this area.

The Member States shall work together to enhance and develop their mutual political solidarity. They shall refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations.

The Council and the High Representative shall ensure compliance with these principles.

#### *Article 25*

(ex Article 12 TEU)

The Union shall conduct the common foreign and security policy by:

(a) defining the general guidelines;

(b) adopting decisions defining:

(i) actions to be undertaken by the Union;

(ii) positions to be taken by the Union;

(iii) arrangements for the implementation of the decisions referred to in points (i) and (ii); and by

(c) strengthening systematic cooperation between Member States in the conduct of policy.

#### *Article 26*

(ex Article 13 TEU)

1. The European Council shall identify the Union's strategic interests, determine the objectives of and define general guidelines for the common foreign and security policy, including for matters with defence implications. It shall adopt the necessary decisions.

If international developments so require, the President of the European Council shall convene an extraordinary meeting of the European Council in order to define the strategic lines of the Union's policy in the face of such developments.

2. The Council shall frame the common foreign and security policy and take the decisions necessary for defining and implementing it on the basis of the general guidelines and strategic lines defined by the European Council.

The Council and the High Representative of the Union for Foreign Affairs and Security Policy shall ensure the unity, consistency and effectiveness of action by the Union.

3. The common foreign and security policy shall be put into effect by the High Representative and by the Member States, using national and Union resources.

#### *Article 27*

1. The High Representative of the Union for Foreign Affairs and Security Policy, who shall chair the Foreign Affairs Council, shall contribute through his proposals to the development of the common foreign and security policy and shall ensure implementation of the decisions adopted by the European Council and the Council.

2. The High Representative shall represent the Union for matters relating to the common foreign and security policy. He shall conduct political dialogue with third parties on the Union's behalf and shall express the Union's position in international organisations and at international conferences.

3. In fulfilling his mandate, the High Representative shall be assisted by a European External Action Service. This service shall work in cooperation with the diplomatic services of the Member States and shall comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States. The organisation and functioning of

the European External Action Service shall be established by a decision of the Council. The Council shall act on a proposal from the High Representative after consulting the European Parliament and after obtaining the consent of the Commission.

*Article 28*

(ex Article 14 TEU)

1. Where the international situation requires operational action by the Union, the Council shall adopt the necessary decisions. They shall lay down their objectives, scope, the means to be made available to the Union, if necessary their duration, and the conditions for their implementation.

If there is a change in circumstances having a substantial effect on a question subject to such a decision, the Council shall review the principles and objectives of that decision and take the necessary decisions.

2. Decisions referred to in paragraph 1 shall commit the Member States in the positions they adopt and in the conduct of their activity.

3. Whenever there is any plan to adopt a national position or take national action pursuant to a decision as referred to in paragraph 1, information shall be provided by the Member State concerned in time to allow, if necessary, for prior consultations within the Council. The obligation to provide prior information shall not apply to measures which are merely a national transposition of Council decisions.

4. In cases of imperative need arising from changes in the situation and failing a review of the Council decision as referred to in paragraph 1, Member States may take the necessary measures as a matter of urgency having regard to the general objectives of that decision. The Member State concerned shall inform the Council immediately of any such measures.

5. Should there be any major difficulties in implementing a decision as referred to in this Article, a Member State shall refer them to the Council which shall discuss them and seek appropriate solutions. Such solutions shall not run counter to the objectives of the decision referred to in paragraph 1 or impair its effectiveness.

*Article 29*

(ex Article 15 TEU)

The Council shall adopt decisions which shall define the approach of the Union to a particular matter of a geographical or thematic nature. Member States shall ensure that their national policies conform to the Union positions.

*Article 30*

(ex Article 22 TEU)

1. Any Member State, the High Representative of the Union for Foreign Affairs and Security Policy, or the High Representative with the Commission's support, may refer any question relating to the common foreign and security policy to the Council and may submit to it, respectively, initiatives or proposals.

2. In cases requiring a rapid decision, the High Representative, of his own motion, or at the request of a Member State, shall convene an extraordinary Council meeting within 48 hours or, in an emergency, within a shorter period.

*Article 31*

(ex Article 23 TEU)

1. Decisions under this Chapter shall be taken by the European Council and the Council acting unanimously, except where this Chapter provides otherwise. The adoption of legislative acts shall be excluded.

When abstaining in a vote, any member of the Council may qualify its abstention by making a formal declaration under the present subparagraph. In that case, it shall not be obliged to apply the decision, but shall accept that the decision commits the Union. In a spirit of mutual solidarity, the Member State concerned shall refrain from any action likely to conflict with or impede Union action based on that decision and the other Member States shall respect its position. If the members of the Council qualifying their abstention in this

way represent at least one third of the Member States comprising at least one third of the population of the Union, the decision shall not be adopted.

2. By derogation from the provisions of paragraph 1, the Council shall act by qualified majority:

— when adopting a decision defining a Union action or position on the basis of a decision of the European Council relating to the Union's strategic interests and objectives, as referred to in Article 22(1),

— when adopting a decision defining a Union action or position, on a proposal which the High Representative of the Union for Foreign Affairs and Security Policy has presented following a specific request from the European Council, made on its own initiative or that of the High Representative,

— when adopting any decision implementing a decision defining a Union action or position,

— when appointing a special representative in accordance with Article 33.

If a member of the Council declares that, for vital and stated reasons of national policy, it intends to oppose the adoption of a decision to be taken by qualified majority, a vote shall not be taken. The High Representative will, in close consultation with the Member State involved, search for a solution acceptable to it. If he does not succeed, the Council may, acting by a qualified majority, request that the matter be referred to the European Council for a decision by unanimity.

3. The European Council may unanimously adopt a decision stipulating that the Council shall act by a qualified majority in cases other than those referred to in paragraph 2.

4. Paragraphs 2 and 3 shall not apply to decisions having military or defence implications.

5. For procedural questions, the Council shall act by a majority of its members.

#### *Article 32*

(ex Article 16 TEU)

Member States shall consult one another within the European Council and the Council on any matter of foreign and security policy of general interest in order to determine a common approach. Before undertaking any action on the international scene or entering into any commitment which could affect the Union's interests, each Member State shall consult the others within the European Council or the Council. Member States shall ensure, through the convergence of their actions, that the Union is able to assert its interests and values on the international scene. Member States shall show mutual solidarity.

When the European Council or the Council has defined a common approach of the Union within the meaning of the first paragraph, the High Representative of the Union for Foreign Affairs and Security Policy and the Ministers for Foreign Affairs of the Member States shall coordinate their activities within the Council.

The diplomatic missions of the Member States and the Union delegations in third countries and at international organisations shall cooperate and shall contribute to formulating and implementing the common approach.

#### *Article 33*

(ex Article 18 TEU)

The Council may, on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy, appoint a special representative with a mandate in relation to particular policy issues. The special representative shall carry out his mandate under the authority of the High Representative.

#### *Article 34*

(ex Article 19 TEU)

1. Member States shall coordinate their action in international organisations and at international conferences. They shall uphold the Union's positions in such forums. The High Representative of the Union for Foreign Affairs and Security Policy shall organise this coordination.

In international organisations and at international conferences where not all the Member

States participate, those which do take part shall uphold the Union's positions.

2. In accordance with Article 24(3), Member States represented in international organisations or international conferences where not all the Member States participate shall keep the other Member States and the High Representative informed of any matter of common interest.

Member States which are also members of the United Nations Security Council will concert and keep the other Member States and the High Representative fully informed. Member States which are members of the Security Council will, in the execution of their functions, defend the positions and the interests of the Union, without prejudice to their responsibilities under the provisions of the United Nations Charter.

When the Union has defined a position on a subject which is on the United Nations Security Council agenda, those Member States which sit on the Security Council shall request that the High Representative be invited to present the Union's position.

#### *Article 35*

(ex Article 20 TEU)

The diplomatic and consular missions of the Member States and the Union delegations in third countries and international conferences, and their representations to international organisations, shall cooperate in ensuring that decisions defining Union positions and actions adopted pursuant to this Chapter are complied with and implemented.

They shall step up cooperation by exchanging information and carrying out joint assessments. They shall contribute to the implementation of the right of citizens of the Union to protection in the territory of third countries as referred to in Article 20(2)(c) of the Treaty on the Functioning of the European Union and of the measures adopted pursuant to Article 23 of that Treaty.

#### *Article 36*

(ex Article 21 TEU)

The High Representative of the Union for Foreign Affairs and Security Policy shall regularly consult the European Parliament on the main aspects and the basic choices of the common foreign and security policy and the common security and defence policy and inform it of how those policies evolve. He shall ensure that the views of the European Parliament are duly taken into consideration. Special representatives may be involved in briefing the European Parliament.

The European Parliament may address questions or make recommendations to the Council or the High Representative. Twice a year it shall hold a debate on progress in implementing the common foreign and security policy, including the common security and defence policy.

#### *Article 37*

(ex Article 24 TEU)

The Union may conclude agreements with one or more States or international organisations in areas covered by this Chapter.

#### *Article 38*

(ex Article 25 TEU)

Without prejudice to Article 240 of the Treaty on the Functioning of the European Union, a Political and Security Committee shall monitor the international situation in the areas covered by the common foreign and security policy and contribute to the definition of policies by delivering opinions to the Council at the request of the Council or of the High Representative of the Union for Foreign Affairs and Security Policy or on its own initiative. It shall also monitor the implementation of agreed policies, without prejudice to the powers of the High Representative.

Within the scope of this Chapter, the Political and Security Committee shall exercise, under the responsibility of the Council and of the High Representative, the political control and strategic direction of the crisis management operations referred to in Article 43.

The Council may authorise the Committee, for the purpose and for the duration of a

crisis management operation, as determined by the Council, to take the relevant decisions concerning the political control and strategic direction of the operation.

*Article 39*

In accordance with Article 16 of the Treaty on the Functioning of the European Union and by way of derogation from paragraph 2 thereof, the Council shall adopt a decision laying down the rules relating to the protection of individuals with regard to the processing of personal data by the Member States when carrying out activities which fall within the scope of this Chapter, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.

*Article 40*

(ex Article 47 TEU)

The implementation of the common foreign and security policy shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the Treaties for the exercise of the Union competences referred to in Articles 3 to 6 of the Treaty on the Functioning of the European Union.

Similarly, the implementation of the policies listed in those Articles shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the Treaties for the exercise of the Union competences under this Chapter.

*Article 41*

(ex Article 28 TEU)

1. Administrative expenditure to which the implementation of this Chapter gives rise for the institutions shall be charged to the Union budget.

2. Operating expenditure to which the implementation of this Chapter gives rise shall also be charged to the Union budget, except for such expenditure arising from operations having military or defence implications and cases where the Council acting unanimously decides otherwise.

In cases where expenditure is not charged to the Union budget, it shall be charged to the Member States in accordance with the gross national product scale, unless the Council acting unanimously decides otherwise. As for expenditure arising from operations having military or defence implications, Member States whose representatives in the Council have made a formal declaration under Article 31(1), second subparagraph, shall not be obliged to contribute to the financing thereof.

3. The Council shall adopt a decision establishing the specific procedures for guaranteeing rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy, and in particular for preparatory activities for the tasks referred to in Article 42(1) and Article 43. It shall act after consulting the European Parliament.

Preparatory activities for the tasks referred to in Article 42(1) and Article 43 which are not charged to the Union budget shall be financed by a start-up fund made up of Member States' contributions.

The Council shall adopt by a qualified majority, on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy, decisions establishing:

(a) the procedures for setting up and financing the start-up fund, in particular the amounts allocated to the fund;

(b) the procedures for administering the start-up fund; (c) the financial control procedures.

When the task planned in accordance with Article 42(1) and Article 43 cannot be charged to the Union budget, the Council shall authorise the High Representative to use the fund.

The High Representative shall report to the Council on the implementation of this remit.

## SECTION 2

### PROVISIONS ON THE COMMON SECURITY AND DEFENCE POLICY

#### Article 42

(ex Article 17 TEU)

1. The common security and defence policy shall be an integral part of the common foreign and security policy. It shall provide the Union with an operational capacity drawing on civilian and military assets. The Union may use them on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The performance of these tasks shall be undertaken using capabilities provided by the Member States.

2. The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.

The policy of the Union in accordance with this Section shall not prejudice the specific character of the security and defence policy of certain Member States and shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation (NATO), under the North Atlantic Treaty and be compatible with the common security and defence policy established within that framework.

3. Member States shall make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the Council. Those Member States which together establish multinational forces may also make them available to the common security and defence policy.

Member States shall undertake progressively to improve their military capabilities. The Agency in the field of defence capabilities development, research, acquisition and armaments (hereinafter referred to as 'the European Defence Agency') shall identify operational requirements, shall promote measures to satisfy those requirements, shall contribute to identifying and, where appropriate, implementing any measure needed to strengthen the industrial and technological base of the defence sector, shall participate in defining a European capabilities and armaments policy, and shall assist the Council in evaluating the improvement of military capabilities.

4. Decisions relating to the common security and defence policy, including those initiating a mission as referred to in this Article, shall be adopted by the Council acting unanimously on a proposal from the High Representative of the Union for Foreign Affairs and Security Policy or an initiative from a Member State. The High Representative may propose the use of both national resources and Union instruments, together with the Commission where appropriate.

5. The Council may entrust the execution of a task, within the Union framework, to a group of Member States in order to protect the Union's values and serve its interests. The execution of such a task shall be governed by Article 44.

6. Those Member States whose military capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions shall establish permanent structured cooperation within the Union framework. Such cooperation shall be governed by Article 46. It shall not affect the provisions of Article 43.

7. If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States.

Commitments and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation.

#### *Article 43*

1. The tasks referred to in Article 42(1), in the course of which the Union may use civilian and military means, shall include joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories.

2. The Council shall adopt decisions relating to the tasks referred to in paragraph 1, defining their objectives and scope and the general conditions for their implementation. The High Representative of the Union for Foreign Affairs and Security Policy, acting under the authority of the Council and in close and constant contact with the Political and Security Committee, shall ensure coordination of the civilian and military aspects of such tasks.

#### *Article 44*

1. Within the framework of the decisions adopted in accordance with Article 43, the Council may entrust the implementation of a task to a group of Member States which are willing and have the necessary capability for such a task. Those Member States, in association with the High Representative of the Union for Foreign Affairs and Security Policy, shall agree among themselves on the management of the task.

2. Member States participating in the task shall keep the Council regularly informed of its progress on their own initiative or at the request of another Member State. Those States shall inform the Council immediately should the completion of the task entail major consequences or require amendment of the objective, scope and conditions determined for the task in the decisions referred to in paragraph 1. In such cases, the Council shall adopt the necessary decisions.

#### *Article 45*

1. The European Defence Agency referred to in Article 42(3), subject to the authority of the Council, shall have as its task to:

- (a) contribute to identifying the Member States' military capability objectives and evaluating observance of the capability commitments given by the Member States;
- (b) promote harmonisation of operational needs and adoption of effective, compatible procurement methods;
- (c) propose multilateral projects to fulfil the objectives in terms of military capabilities, ensure coordination of the programmes implemented by the Member States and management of specific cooperation programmes;
- (d) support defence technology research, and coordinate and plan joint research activities and the study of technical solutions meeting future operational needs;
- (e) contribute to identifying and, if necessary, implementing any useful measure for strengthening the industrial and technological base of the defence sector and for improving the effectiveness of military expenditure.

2. The European Defence Agency shall be open to all Member States wishing to be part of it. The Council, acting by a qualified majority, shall adopt a decision defining the Agency's statute, seat and operational rules. That decision should take account of the level of effective participation in the Agency's activities. Specific groups shall be set up within the Agency bringing together Member States engaged in joint projects. The Agency shall carry out its tasks in liaison with the Commission where necessary.

#### *Article 46*

1. Those Member States which wish to participate in the permanent structured cooperation referred to in Article 42(6), which fulfil the criteria and have made the commitments on military capabilities set out in the Protocol on permanent structured cooperation, shall notify their intention to the Council and to the High Representative of the Union for Foreign Affairs and Security Policy.

2. Within three months following the notification referred to in paragraph 1 the Council

shall adopt a decision establishing permanent structured cooperation and determining the list of participating Member States. The Council shall act by a qualified majority after consulting the High Representative.

3. Any Member State which, at a later stage, wishes to participate in the permanent structured cooperation shall notify its intention to the Council and to the High Representative.

The Council shall adopt a decision confirming the participation of the Member State concerned which fulfils the criteria and makes the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation. The Council shall act by a qualified majority after consulting the High Representative. Only members of the Council representing the participating Member States shall take part in the vote.

A qualified majority shall be defined in accordance with Article 238(3)(a) of the Treaty on the Functioning of the European Union.

4. If a participating Member State no longer fulfils the criteria or is no longer able to meet the commitments referred to in Articles 1 and 2 of the Protocol on permanent structured cooperation, the Council may adopt a decision suspending the participation of the Member State concerned.

The Council shall act by a qualified majority. Only members of the Council representing the participating Member States, with the exception of the Member State in question, shall take part in the vote.

A qualified majority shall be defined in accordance with Article 238(3)(a) of the Treaty on the Functioning of the European Union.

5. Any participating Member State which wishes to withdraw from permanent structured cooperation shall notify its intention to the Council, which shall take note that the Member State in question has ceased to participate.

6. The decisions and recommendations of the Council within the framework of permanent structured cooperation, other than those provided for in paragraphs 2 to 5, shall be adopted by unanimity. For the purposes of this paragraph, unanimity shall be constituted by the votes of the representatives of the participating Member States only.

## TITLE VI

### **FINAL PROVISIONS**

#### *Article 47*

The Union shall have legal personality.

#### *Article 48*

(ex Article 48 TEU)

1. The Treaties may be amended in accordance with an ordinary revision procedure. They may also be amended in accordance with simplified revision procedures. (2, 3, 4, 5, 6, 7) - omitted

*Article 49, 50, 51*- omitted

#### *Article 52*

1. The Treaties shall apply to the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland.

2. The territorial scope of the Treaties is specified in Article 355 of the Treaty on the Functioning of the European Union.

*Article 53*

(ex Article 51 TEU)

This Treaty is concluded for an unlimited period.

*Article 54 - omitted*

*Article 55*

(ex Article 53 TEU)

1. This Treaty, drawn up in a single original in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic, shall be deposited in the archives of the Government of the Italian Republic, which will transmit a certified copy to each of the governments of the other signatory States.

2. This Treaty may also be translated into any other languages as determined by Member States among those which, in accordance with their constitutional order, enjoy official status in all or part of their territory. A certified copy of such translations shall be provided by the Member States concerned to be deposited in the archives of the Council.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed this Treaty.

Done at Maastricht on the seventh day of February in the year one thousand nine hundred and ninety-two.

### **3 Consolidated Version of The Treaty on The Functioning of The European Union**

#### **PREAMBLE**

**HIS MAJESTY THE KING OF THE BELGIANS, THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY, THE PRESIDENT OF THE FRENCH REPUBLIC, THE PRESIDENT OF THE ITALIAN REPUBLIC, HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBOURG, HER MAJESTY THE QUEEN OF THE NETHERLANDS<sup>1</sup>**

**DETERMINED** to lay the foundations of an ever closer union among the peoples of Europe,

**RESOLVED** to ensure the economic and social progress of their States by common action to eliminate the barriers which divide Europe,

**AFFIRMING** as the essential objective of their efforts the constant improvements of the living and working conditions of their peoples,

**RECOGNISING** that the removal of existing obstacles calls for concerted action in order to guarantee steady expansion, balanced trade and fair competition,

**ANXIOUS** to strengthen the unity of their economies and to ensure their harmonious development by reducing the differences existing between the various regions and the backwardness of the less favoured regions,

**DESIRING** to contribute, by means of a common commercial policy, to the progressive abolition of restrictions on international trade,

**INTENDING** to confirm the solidarity which binds Europe and the overseas countries and desiring to ensure the development of their prosperity, in accordance with the principles of the Charter of the United Nations,

**RESOLVED** by thus pooling their resources to preserve and strengthen peace and liberty,

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1) The Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland have since become members of the European Union.

and calling upon the other peoples of Europe who share their ideal to join in their efforts, **DETERMINED** to promote the development of the highest possible level of knowledge for their peoples through a wide access to education and through its continuous updating, and to this end **HAVE DESIGNATED** as their

## PART ONE

### **PRINCIPLES**

#### *Article 1*

1. This Treaty organises the functioning of the Union and determines the areas of, delimitation of, and arrangements for exercising its competences.
2. This Treaty and the Treaty on European Union constitute the Treaties on which the Union is founded. These two Treaties, which have the same legal value, shall be referred to as ‘the Treaties’.

## TITLE I

### **CATEGORIES AND AREAS OF UNION COMPETENCE**

#### *Article 2*

1. When the Treaties confer on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts.
2. When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Union and the Member States may legislate and adopt legally binding acts in that area. The Member States shall exercise their competence to the extent that the Union has not exercised its competence. The Member States shall again exercise their competence to the extent that the Union has decided to cease exercising its competence.
3. The Member States shall coordinate their economic and employment policies within arrangements as determined by this Treaty, which the Union shall have competence to provide.
4. The Union shall have competence, in accordance with the provisions of the Treaty on European Union, to define and implement a common foreign and security policy, including the progressive framing of a common defence policy.
5. In certain areas and under the conditions laid down in the Treaties, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas. Legally binding acts of the Union adopted on the basis of the provisions of the Treaties relating to these areas shall not entail harmonisation of Member States’ laws or regulations.
6. The scope of and arrangements for exercising the Union’s competences shall be determined by the provisions of the Treaties relating to each area.

#### *Article 3*

1. The Union shall have exclusive competence in the following areas:
  - (a) customs union;
  - (b) the establishing of the competition rules necessary for the functioning of the internal market;
  - (c) monetary policy for the Member States whose currency is the euro;
  - (d) the conservation of marine biological resources under the common fisheries policy;
  - (e) common commercial policy.
2. The Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or in so far as its conclusion may affect common rules or alter their scope.

#### *Article 4*

1. The Union shall share competence with the Member States where the Treaties confer on

it a competence which does not relate to the areas referred to in Articles 3 and 6.

2. Shared competence between the Union and the Member States applies in the following principal areas:

- (a) internal market;
- (b) social policy, for the aspects defined in this Treaty;
- (c) economic, social and territorial cohesion;
- (d) agriculture and fisheries, excluding the conservation of marine biological resources;
- (e) environment;
- (f) consumer protection;
- (g) transport;
- (h) trans-European networks;
- (i) energy;
- (j) area of freedom, security and justice;
- (k) common safety concerns in public health matters, for the aspects defined in this Treaty.

3. In the areas of research, technological development and space, the Union shall have competence to carry out activities, in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.

4. In the areas of development cooperation and humanitarian aid, the Union shall have competence to carry out activities and conduct a common policy; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.

Article 5 - omitted

*Article 6*

The Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States. The areas of such action shall, at European level, be:

- (a) protection and improvement of human health;
- (b) industry;
- (c) culture;
- (d) tourism;
- (e) education, vocational training, youth and sport;
- (f) civil protection;
- (g) administrative cooperation.

## TITLE II

### **PROVISIONS HAVING GENERAL APPLICATION**

*Article 7*

The Union shall ensure consistency between its policies and activities, taking all of its objectives into account and in accordance with the principle of conferral of powers.

*Article 8*

In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women.

*Article 9*

In defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.

*Article 10*

In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

*Article 11*

(ex Article 6 TEC)

Environmental protection requirements must be integrated into the definition and implementation of the Union's policies and activities, in particular with a view to promoting sustainable development.

*Article 12*

(ex Article 153(2) TEC)

Consumer protection requirements shall be taken into account in defining and implementing other Union policies and activities.

*Article 13*

In formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage.

*Article 14*

(ex Article 16 TEC)

Without prejudice to Article 4 of the Treaty on European Union or to Articles 93, 106 and 107 of this Treaty, and given the place occupied by services of general economic interest in the shared values of the Union as well as their role in promoting social and territorial cohesion, the Union and the Member States, each within their respective powers and within the scope of application of the Treaties, shall take care that such services operate on the basis of principles and conditions, particularly economic and financial conditions, which enable them to fulfil their missions. The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall establish these principles and set these conditions without prejudice to the competence of Member States, in compliance with the Treaties, to provide, to commission and to fund such services.

*Article 15*

(ex Article 255 TEC)

1. In order to promote good governance and ensure the participation of civil society, the Union's institutions, bodies, offices and agencies shall conduct their work as openly as possible.

2. The European Parliament shall meet in public, as shall the Council when considering and voting on a draft legislative act.

3. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Union's institutions, bodies, offices and agencies, whatever their medium, subject to the principles and the conditions to be defined in accordance with this paragraph.

General principles and limits on grounds of public or private interest governing this right of access to documents shall be determined by the European Parliament and the Council, by means of regulations, acting in accordance with the ordinary legislative procedure.

Each institution, body, office or agency shall ensure that its proceedings are transparent and shall elaborate in its own Rules of Procedure specific provisions regarding access to its documents, in accordance with the regulations referred to in the second subparagraph.

The Court of Justice of the European Union, the European Central Bank and the European Investment Bank shall be subject to this paragraph only when exercising their administrative tasks.

The European Parliament and the Council shall ensure publication of the documents relating to the legislative procedures under the terms laid down by the regulations referred to in the second subparagraph.

*Article 16*

(ex Article 286 TEC)

1. Everyone has the right to the protection of personal data concerning them.

2. The European Parliament and the Council, acting in accordance with the ordinary

legislative procedure, shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States when carrying out activities which fall within the scope of Union law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.

The rules adopted on the basis of this Article shall be without prejudice to the specific rules laid down in Article 39 of the Treaty on European Union.

*Article 17*

1. The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States.
2. The Union equally respects the status under national law of philosophical and non-confessional organisations.
3. Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations.

**PART TWO**

**NON-DISCRIMINATION AND CITIZENSHIP OF THE UNION**

- omitted

**PART THREE**

**UNION POLICIES AND INTERNAL ACTIONS**

**TITLE I**

**THE INTERNAL MARKET**

*Article 26*

(ex Article 14 TEC)

1. The Union shall adopt measures with the aim of establishing or ensuring the functioning of the internal market, in accordance with the relevant provisions of the Treaties.
2. The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaties.
3. The Council, on a proposal from the Commission, shall determine the guidelines and conditions necessary to ensure balanced progress in all the sectors concerned.

*Article 27* - omitted

**TITLE II**

**FREE MOVEMENT OF GOODS**

*Article 28*

(ex Article 23 TEC)

1. The Union shall comprise a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries.

**TITLE III**

**AGRICULTURE AND FISHERIES** - omitted

**TITLE IV**

**FREE MOVEMENT OF PERSONS, SERVICES AND CAPITAL** - omitted

**TITLE V**

**AREA OF FREEDOM, SECURITY AND JUSTICE**

## CHAPTER 1 GENERAL PROVISIONS

### *Article 67*

(ex Article 61 TEC and ex Article 29 TEU)

1. The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.
2. It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Title, stateless persons shall be treated as third-country nationals.
3. The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws.
4. The Union shall facilitate access to justice, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters.

### *Article 68*

The European Council shall define the strategic guidelines for legislative and operational planning within the area of freedom, security and justice.

### *Article 69*

National Parliaments ensure that the proposals and legislative initiatives submitted under Chapters 4 and 5 comply with the principle of subsidiarity, in accordance with the arrangements laid down by the Protocol on the application of the principles of subsidiarity and proportionality.

### *Article 70*

Without prejudice to Articles 258, 259 and 260, the Council may, on a proposal from the Commission, adopt measures laying down the arrangements whereby Member States, in collaboration with the Commission, conduct objective and impartial evaluation of the implementation of the Union policies referred to in this Title by Member States' authorities, in particular in order to facilitate full application of the principle of mutual recognition. The European Parliament and national Parliaments shall be informed of the content and results of the evaluation.

### *Article 71*

(ex Article 36 TEU)

A standing committee shall be set up within the Council in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union. Without prejudice to Article 240, it shall facilitate coordination of the action of Member States' competent authorities. Representatives of the Union bodies, offices and agencies concerned may be involved in the proceedings of this committee. The European Parliament and national Parliaments shall be kept informed of the proceedings.

### *Article 72*

(ex Article 64(1) TEC and ex Article 33 TEU)

This Title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

### *Article 73*

It shall be open to Member States to organise between themselves and under their responsibility such forms of cooperation and coordination as they deem appropriate between the competent departments of their administrations responsible for safeguarding national security.

#### *Article 74*

(ex Article 66 TEC)

The Council shall adopt measures to ensure administrative cooperation between the relevant departments of the Member States in the areas covered by this Title, as well as between those departments and the Commission. It shall act on a Commission proposal, subject to Article 76, and after consulting the European Parliament.

#### *Article 75*

(ex Article 60 TEC)

Where necessary to achieve the objectives set out in Article 67, as regards preventing and combating terrorism and related activities, the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall define a framework for administrative measures with regard to capital movements and payments, such as the freezing of funds, financial assets or economic gains belonging to, or owned or held by, natural or legal persons, groups or non-State entities.

The Council, on a proposal from the Commission, shall adopt measures to implement the framework referred to in the first paragraph.

The acts referred to in this Article shall include necessary provisions on legal safeguards.

#### *Article 76*

The acts referred to in Chapters 4 and 5, together with the measures referred to in Article 74 which ensure administrative cooperation in the areas covered by these Chapters, shall be adopted:

- (a) on a proposal from the Commission, or
- (b) on the initiative of a quarter of the Member States.

## CHAPTER 2

### POLICIES ON BORDER CHECKS, ASYLUM AND IMMIGRATION

#### *Article 77*

(ex Article 62 TEC)

1. The Union shall develop a policy with a view to:

- (a) ensuring the absence of any controls on persons, whatever their nationality, when crossing internal borders;
- (b) carrying out checks on persons and efficient monitoring of the crossing of external borders;
- (c) the gradual introduction of an integrated management system for external borders.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures concerning:

- (a) the common policy on visas and other short-stay residence permits;
- (b) the checks to which persons crossing external borders are subject;
- (c) the conditions under which nationals of third countries shall have the freedom to travel within the Union for a short period;
- (d) any measure necessary for the gradual establishment of an integrated management system for external borders;
- (e) the absence of any controls on persons, whatever their nationality, when crossing internal borders.

3. If action by the Union should prove necessary to facilitate the exercise of the right referred to in Article 20(2)(a), and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may adopt provisions concerning passports, identity cards, residence permits or any other such document. The Council shall act unanimously after consulting the European Parliament.

4. This Article shall not affect the competence of the Member States concerning the geographical demarcation of their borders, in accordance with international law.

### *Article 78*

(ex Articles 63, points 1 and 2, and 64(2) TEC)

1. The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of *non-refoulement*. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures for a common European asylum system comprising:

- (a) a uniform status of asylum for nationals of third countries, valid throughout the Union;
- (b) a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection;
- (c) a common system of temporary protection for displaced persons in the event of a massive inflow;
- (d) common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;
- (e) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;
- (f) standards concerning the conditions for the reception of applicants for asylum or subsidiary protection;
- (g) partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection.

3. In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.

*Articles 79 - omitted*

*Articles 80 - omitted*

## CHAPTER 3

### JUDICIAL COOPERATION IN CIVIL MATTERS - omitted

## CHAPTER 4

### JUDICIAL COOPERATION IN CRIMINAL MATTERS

#### *Article 82*

(ex Article 31 TEU)

1. Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions and shall include the approximation of the laws and regulations of the Member States in the areas referred to in paragraph 2 and in Article 83.

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures to:

- (a) lay down rules and procedures for ensuring recognition throughout the Union of all forms of judgments and judicial decisions;
- (b) prevent and settle conflicts of jurisdiction between Member States;
- (c) support the training of the judiciary and judicial staff;
- (d) facilitate cooperation between judicial or equivalent authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions.

2. To the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, the European Parliament and the Council may, by means of directives adopted

in accordance with the ordinary legislative procedure, establish minimum rules. Such rules shall take into account the differences between the legal traditions and systems of the Member States.

They shall concern:

- (a) mutual admissibility of evidence between Member States;
- (b) the rights of individuals in criminal procedure;
- (c) the rights of victims of crime;
- (d) any other specific aspects of criminal procedure which the Council has identified in advance by a decision; for the adoption of such a decision, the Council shall act unanimously after obtaining the consent of the European Parliament.

Adoption of the minimum rules referred to in this paragraph shall not prevent Member States from maintaining or introducing a higher level of protection for individuals.

3. Where a member of the Council considers that a draft directive as referred to in paragraph 2 would affect fundamental aspects of its criminal justice system, it may request that the draft directive be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Article 20(2) of the Treaty on European Union and Article 329(1) of this Treaty shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

#### *Article 83*

(ex Article 31 TEU)

1. The European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.

These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime. On the basis of developments in crime, the Council may adopt a decision identifying other areas of crime that meet the criteria specified in this paragraph. It shall act unanimously after obtaining the consent of the European Parliament.

2. If the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, directives may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned. Such directives shall be adopted by the same ordinary or special legislative procedure as was followed for the adoption of the harmonisation measures in question, without prejudice to Article 76.

3. Where a member of the Council considers that a draft directive as referred to in paragraph 1 or 2 would affect fundamental aspects of its criminal justice system, it may request that the draft directive be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such

a case, the authorisation to proceed with enhanced cooperation referred to in Article 20(2) of the Treaty on European Union and Article 329(1) of this Treaty shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

*Article 84*

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to promote and support the action of Member States in the field of crime prevention, excluding any harmonisation of the laws and regulations of the Member States.

*Article 85*

(ex Article 31 TEU)

1. Eurojust's mission shall be to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol.

In this context, the European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Eurojust's structure, operation, field of action and tasks. These tasks may include:

(a) the initiation of criminal investigations, as well as proposing the initiation of prosecutions conducted by competent national authorities, particularly those relating to offences against the financial interests of the Union;

(b) the coordination of investigations and prosecutions referred to in point (a);

(c) the strengthening of judicial cooperation, including by resolution of conflicts of jurisdiction and by close cooperation with the European Judicial Network.

These regulations shall also determine arrangements for involving the European Parliament and national Parliaments in the evaluation of Eurojust's activities.

2. In the prosecutions referred to in paragraph 1, and without prejudice to Article 86, formal acts of judicial procedure shall be carried out by the competent national officials.

*Article 86*

1. In order to combat crimes affecting the financial interests of the Union, the Council, by means of regulations adopted in accordance with a special legislative procedure, may establish a European Public Prosecutor's Office from Eurojust. The Council shall act unanimously after obtaining the consent of the European Parliament.

In the absence of unanimity in the Council, a group of at least nine Member States may request that the draft regulation be referred to the European Council. In that case, the procedure in the Council shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council for adoption.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft regulation concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Article 20(2) of the Treaty on European Union and Article 329(1) of this Treaty shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

2. The European Public Prosecutor's Office shall be responsible for investigating, prosecuting and bringing to judgment, where appropriate in liaison with Europol, the perpetrators of, and accomplices in, offences against the Union's financial interests, as determined by the regulation provided for in paragraph 1. It shall exercise the functions of prosecutor in the competent courts of the Member States in relation to such offences.

3. The regulations referred to in paragraph 1 shall determine the general rules applicable to the European Public Prosecutor's Office, the conditions governing the performance of its functions, the rules of procedure applicable to its activities, as well as those governing

the admissibility of evidence, and the rules applicable to the judicial review of procedural measures taken by it in the performance of its functions.

4. The European Council may, at the same time or subsequently, adopt a decision amending paragraph 1 in order to extend the powers of the European Public Prosecutor's Office to include serious crime having a cross-border dimension and amending accordingly paragraph 2 as regards the perpetrators of, and accomplices in, serious crimes affecting more than one Member State. The European Council shall act unanimously after obtaining the consent of the European Parliament and after consulting the Commission.

## CHAPTER 5 POLICE COOPERATION

### *Article 87*

(ex Article 30 TEU)

1. The Union shall establish police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures concerning:

- (a) the collection, storage, processing, analysis and exchange of relevant information;
- (b) support for the training of staff, and cooperation on the exchange of staff, on equipment and on research into crime-detection;
- (c) common investigative techniques in relation to the detection of serious forms of organised crime.

3. The Council, acting in accordance with a special legislative procedure, may establish measures concerning operational cooperation between the authorities referred to in this Article. The Council shall act unanimously after consulting the European Parliament.

In case of the absence of unanimity in the Council, a group of at least nine Member States may request that the draft measures be referred to the European Council. In that case, the procedure in the Council shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council for adoption.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft measures concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Article 20(2) of the Treaty on European Union and Article 329(1) of this Treaty shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

The specific procedure provided for in the second and third subparagraphs shall not apply to acts which constitute a development of the Schengen *acquis*.

### *Article 88*

(ex Article 30 TEU)

1. Europol's mission shall be to support and strengthen action by the Member States' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy.

2. The European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Europol's structure, operation, field of action and tasks. These tasks may include:

- (a) the collection, storage, processing, analysis and exchange of information, in particular that forwarded by the authorities of the Member States or third countries or bodies;
- (b) the coordination, organisation and implementation of investigative and operational action carried out jointly with the Member States' competent authorities or in the context

of joint investigative teams, where appropriate in liaison with Eurojust.

These regulations shall also lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with national Parliaments.

3. Any operational action by Europol must be carried out in liaison and in agreement with the authorities of the Member State or States whose territory is concerned. The application of coercive measures shall be the exclusive responsibility of the competent national authorities.

*Article 89*

(ex Article 32 TEU)

The Council, acting in accordance with a special legislative procedure, shall lay down the conditions and limitations under which the competent authorities of the Member States referred to in Articles 82 and 87 may operate in the territory of another Member State in liaison and in agreement with the authorities of that State. The Council shall act unanimously after consulting the European Parliament.

**TITLE VI**

**TRANSPORT** - omitted

**TITLE VII**

**COMMON RULES ON COMPETITION, TAXATION AND APPROXIMATION OF LAWS** - omitted

**TITLE VIII**

**ECONOMIC AND MONETARY POLICY** - omitted

**TITLE IX**

**EMPLOYMENT** - omitted

**TITLE X**

**SOCIAL POLICY** - omitted

**TITLE XI**

**THE EUROPEAN SOCIAL FUND** - omitted

**TITLE XII**

**EDUCATION, VOCATIONAL TRAINING, YOUTH AND SPORT** - omitted

**TITLE XIII**

**CULTURE** - omitted

**TITLE XIV**

**PUBLIC HEALTH** - omitted

**TITLE XV**

**CONSUMER PROTECTION** - omitted

**TITLE XVI**

**TRANS-EUROPEAN NETWORKS**

*Article 170*

(ex Article 154 TEC)

1. To help achieve the objectives referred to in Articles 26 and 174 and to enable citizens of the Union, economic operators and regional and local communities to derive full benefit

from the setting-up of an area without internal frontiers, the Union shall contribute to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures.

2. Within the framework of a system of open and competitive markets, action by the Union shall aim at promoting the interconnection and interoperability of national networks as well as access to such networks. It shall take account in particular of the need to link island, landlocked and peripheral regions with the central regions of the Union.

*Article 171*

(ex Article 155 TEC)

1. In order to achieve the objectives referred to in Article 170, the Union:

— shall establish a series of guidelines covering the objectives, priorities and broad lines of measures envisaged in the sphere of trans-European networks; these guidelines shall identify projects of common interest,

— shall implement any measures that may prove necessary to ensure the interoperability of the networks, in particular in the field of technical standardisation,

— may support projects of common interest supported by Member States, which are identified in the framework of the guidelines referred to in the first indent, particularly through feasibility studies, loan guarantees or interest-rate subsidies; the Union may also contribute, through the Cohesion Fund set up pursuant to Article 177, to the financing of specific projects in Member States in the area of transport infrastructure.

The Union's activities shall take into account the potential economic viability of the projects.

2. Member States shall, in liaison with the Commission, coordinate among themselves the policies pursued at national level which may have a significant impact on the achievement of the objectives referred to in Article 170. The Commission may, in close cooperation with the Member State, take any useful initiative to promote such coordination.

3. The Union may decide to cooperate with third countries to promote projects of mutual interest and to ensure the interoperability of networks.

*Article 172 - omitted*

**TYTUŁ XVII**

**INDUSTRY - omitted**

**TITLE XVIII**

**ECONOMIC, SOCIAL AND TERRITORIAL COHESION - omitted**

**TITLE XIX**

**RESEARCH AND TECHNOLOGICAL DEVELOPMENT AND SPACE**

*Article 179*

(ex Article 163 TEC)

1. The Union shall have the objective of strengthening its scientific and technological bases by achieving a European research area in which researchers, scientific knowledge and technology circulate freely, and encouraging it to become more competitive, including in its industry, while promoting all the research activities deemed necessary by virtue of other Chapters of the Treaties.

2. For this purpose the Union shall, throughout the Union, encourage undertakings, including small and medium-sized undertakings, research centres and universities in their research and technological development activities of high quality; it shall support their efforts to cooperate with one another, aiming, notably, at permitting researchers to cooperate freely across borders and at enabling undertakings to exploit the internal market potential to the full, in particular through the opening-up of national public contracts, the definition of common standards and the removal of legal and fiscal obstacles to that cooperation.

3. All Union activities under the Treaties in the area of research and technological

development, including demonstration projects, shall be decided on and implemented in accordance with the provisions of this Title.

*Article 180*

(ex Article 164 TEC)

In pursuing these objectives, the Union shall carry out the following activities, complementing the activities carried out in the Member States:

- (a) implementation of research, technological development and demonstration programmes, by promoting cooperation with and between undertakings, research centres and universities;
- (b) promotion of cooperation in the field of Union research, technological development and demonstration with third countries and international organisations;
- (c) dissemination and optimisation of the results of activities in Union research, technological development and demonstration;
- (d) stimulation of the training and mobility of researchers in the Union.

*Article 18, 182, 183, 184, 185, 186, 187, 188* - omitted

*Article 189*

1. To promote scientific and technical progress, industrial competitiveness and the implementation of its policies, the Union shall draw up a European space policy. To this end, it may promote joint initiatives, support research and technological development and coordinate the efforts needed for the exploration and exploitation of space.

2. To contribute to attaining the objectives referred to in paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the necessary measures, which may take the form of a European space programme, excluding any harmonisation of the laws and regulations of the Member States.

3. The Union shall establish any appropriate relations with the European Space Agency.

4. This Article shall be without prejudice to the other provisions of this Title.

*Article 190* - omitted

## TITLE XX

### ENVIRONMENT

*Article 191*

(ex Article 174 TEC)

1. Union policy on the environment shall contribute to pursuit of the following objectives:

- preserving, protecting and improving the quality of the environment,
- protecting human health,
- prudent and rational utilisation of natural resources,
- promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

2. Union policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Union. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.

In this context, harmonisation measures answering environmental protection requirements shall include, where appropriate, a safeguard clause allowing Member States to take provisional measures, for non-economic environmental reasons, subject to a procedure of inspection by the Union.

3. In preparing its policy on the environment, the Union shall take account of:

- available scientific and technical data,
- environmental conditions in the various regions of the Union,
- the potential benefits and costs of action or lack of action,
- the economic and social development of the Union as a whole and the balanced

development of its regions.

4. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and with the competent international organisations. The arrangements for Union cooperation may be the subject of agreements between the Union and the third parties concerned.

The previous subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

*Article 192, 193 - omitted*

TITLE XXI

**ENERGY - omitted**

TITLE XXII

**TOURISM - omitted**

TITLE XXIII

**CIVIL PROTECTION - omitted**

TITLE XXIV

**ADMINISTRATIVE COOPERATION - omitted**

PART FOUR

**ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES**

*Article 198, 199, 200, 201, 202, 203, 204 - omitted*

PART FIVE

**THE UNION'S EXTERNAL ACTION**

TITLE I

**GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION**

*Article 205*

The Union's action on the international scene, pursuant to this Part, shall be guided by the principles, pursue the objectives and be conducted in accordance with the general provisions laid down in Chapter 1 of Title V of the Treaty on European Union.

TITLE II

**COMMON COMMERCIAL POLICY - omitted**

TITLE III

**COOPERATION WITH THIRD COUNTRIES AND HUMANITARIAN AID**

omitted

TITLE IV

**RESTRICTIVE MEASURES - omitted**

TITLE V

**INTERNATIONAL AGREEMENTS - omitted**

TITLE VI

**THE UNION'S RELATIONS WITH INTERNATIONAL ORGANISATIONS AND THIRD COUNTRIES AND UNION DELEGATIONS - omitted**

*Article 220, 221 - omitted*

**TITLE VII**  
**SOLIDARITY CLAUSE**

*Article 222*

1. The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to:

- (a) prevent the terrorist threat in the territory of the Member States;
  - protect democratic institutions and the civilian population from any terrorist attack;
  - assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack;
- (b) assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster.

2. Should a Member State be the object of a terrorist attack or the victim of a natural or man-made disaster, the other Member States shall assist it at the request of its political authorities. To that end, the Member States shall coordinate between themselves in the Council.

3. The arrangements for the implementation by the Union of the solidarity clause shall be defined by a decision adopted by the Council acting on a joint proposal by the Commission and the High Representative of the Union for Foreign Affairs and Security Policy. The Council shall act in accordance with Article 31(1) of the Treaty on European Union where this decision has defence implications. The European Parliament shall be informed.

For the purposes of this paragraph and without prejudice to Article 240, the Council shall be assisted by the Political and Security Committee with the support of the structures developed in the context of the common security and defence policy and by the Committee referred to in Article 71; the two committees shall, if necessary, submit joint opinions.

4. The European Council shall regularly assess the threats facing the Union in order to enable the Union and its Member States to take effective action.

**PART SIX**  
**INSTITUTIONAL AND FINANCIAL PROVISIONS**

**TITLE I**  
**INSTITUTIONAL PROVISIONS**

**CHAPTER 1**  
**THE INSTITUTIONS**

**SECTION 1**  
**THE EUROPEAN PARLIAMENT**

*Article 223*

(ex Article 190(4) and (5) TEC)

1. The European Parliament shall draw up a proposal to lay down the provisions necessary for the election of its Members by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States.

The Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, which shall act by a majority of its component Members, shall lay down the necessary provisions. These provisions shall enter into force following their approval by the Member States in accordance with their respective constitutional requirements.

2. The European Parliament, acting by means of regulations on its own initiative in accordance with a special legislative procedure after seeking an opinion from the Commission and with the consent of the Council, shall lay down the regulations and general conditions governing the performance of the duties of its Members. All rules or conditions relating to the taxation of Members or former Members shall require unanimity within the Council.

*Article 224, 225, 226 - omitted*

### *Article 227*

(ex Article 194 TEC)

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to address, individually or in association with other citizens or persons, a petition to the European Parliament on a matter which comes within the Union's fields of activity and which affects him, her or it directly.

### *Article 228*

(ex Article 195 TEC)

1. A European Ombudsman, elected by the European Parliament, shall be empowered to receive complaints from any citizen of the Union or any natural or legal person residing or having its registered office in a Member State concerning instances of maladministration in the activities of the Union institutions, bodies, offices or agencies, with the exception of the Court of Justice of the European Union acting in its judicial role. He or she shall examine such complaints and report on them.

In accordance with his duties, the Ombudsman shall conduct inquiries for which he finds grounds, either on his own initiative or on the basis of complaints submitted to him direct or through a Member of the European Parliament, except where the alleged facts are or have been the subject of legal proceedings. Where the Ombudsman establishes an instance of maladministration, he shall refer.

*Article 229, 230, 231, 232, 233, 234 - omitted*

## *SECTION 2*

### THE EUROPEAN COUNCIL

#### *Article 235*

1. Where a vote is taken, any member of the European Council may also act on behalf of not more than one other member.

Article 16(4) of the Treaty on European Union and Article 238(2) of this Treaty shall apply to the European Council when it is acting by a qualified majority. Where the European Council decides by vote, its President and the President of the Commission shall not take part in the vote.

Abstentions by members present in person or represented shall not prevent the adoption by the European Council of acts which require unanimity.

2. The President of the European Parliament may be invited to be heard by the European Council.

3. The European Council shall act by a simple majority for procedural questions and for the adoption of its Rules of Procedure.

4. The European Council shall be assisted by the General Secretariat of the Council.

#### *Article 236*

The European Council shall adopt by a qualified majority:

(a) a decision establishing the list of Council configurations, other than those of the General Affairs Council and of the Foreign Affairs Council, in accordance with Article 16(6) of the Treaty on European Union;

(b) a decision on the Presidency of Council configurations, other than that of Foreign Affairs, in accordance with Article 16(9) of the Treaty on European Union.

## *SECTION 3*

### THE COUNCIL

#### *Article 237*

(ex Article 204 TEC)

The Council shall meet when convened by its President on his own initiative or at the request of one of its Members or of the Commission.

### *Article 238*

(ex Article 205(1) and (2), TEC)

1. Where it is required to act by a simple majority, the Council shall act by a majority of its component members.

2. By way of derogation from Article 16(4) of the Treaty on European Union, as from 1 November 2014 and subject to the provisions laid down in the Protocol on transitional provisions, where the Council does not act on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, the qualified majority shall be defined as at least 72 % of the members of the Council, representing Member States comprising at least 65 % of the population of the Union.

3. As from 1 November 2014 and subject to the provisions laid down in the Protocol on transitional provisions, in cases where, under the Treaties, not all the members of the Council participate in voting, a qualified majority shall be defined as follows:

(a) A qualified majority shall be defined as at least 55 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States.

A blocking minority must include at least the minimum number of Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained;

(b) By way of derogation from point (a), where the Council does not act on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, the qualified majority shall be defined as at least 72 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States.

4. Abstentions by Members present in person or represented shall not prevent the adoption by the Council of acts which require unanimity.

the matter to the institution, body, office or agency concerned, which shall have a period of three months in which to inform him of its views. The Ombudsman shall then forward a report to the European Parliament and the institution, body, office or agency concerned. The person lodging the complaint shall be informed of the outcome of such inquiries.

The Ombudsman shall submit an annual report to the European Parliament on the outcome of his inquiries.

2. The Ombudsman shall be elected after each election of the European Parliament for the duration of its term of office. The Ombudsman shall be eligible for reappointment.

The Ombudsman may be dismissed by the Court of Justice at the request of the European Parliament if he no longer fulfils the conditions required for the performance of his duties or if he is guilty of serious misconduct.

3. The Ombudsman shall be completely independent in the performance of his duties. In the performance of those duties he shall neither seek nor take instructions from any Government, institution, body, office or entity. The Ombudsman may not, during his term of office, engage in any other occupation, whether gainful or not.

4. The European Parliament acting by means of regulations on its own initiative in accordance with a special legislative procedure shall, after seeking an opinion from the Commission and with the consent of the Council, lay down the regulations and general conditions governing the performance of the Ombudsman's duties.

*Article 239, 240, 241, 242, 243 - omitted*

## **SECTION 4**

### **THE COMMISSION**

#### *Article 244*

In accordance with Article 17(5) of the Treaty on European Union, the Members of the Commission shall be chosen on the basis of a system of rotation established unanimously

by the European Council and on the basis of the following principles:

(a) Member States shall be treated on a strictly equal footing as regards determination of the sequence of, and the time spent by, their nationals as members of the Commission; consequently, the difference between the total number of terms of office held by nationals of any given pair of Member States may never be more than one;

(b) subject to point (a), each successive Commission shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States.

*Article 245*

(ex Article 213 TEC)

The Members of the Commission shall refrain from any action incompatible with their duties. Member States shall respect their independence and shall not seek to influence them in the performance of their tasks.

The Members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council acting by a simple majority or the Commission, rule that the Member concerned be, according to the circumstances, either compulsorily retired in accordance with Article 247 or deprived of his right to a pension or other benefits in its stead.

*Article 246, 247, 248 - omitted*

*Article 249*

(ex Articles 218(2) and 212 TEC)

1. The Commission shall adopt its Rules of Procedure so as to ensure that both it and its departments operate. It shall ensure that these Rules are published.

2. The Commission shall publish annually, not later than one month before the opening of the session of the European Parliament, a general report on the activities of the Union.

*Article 250 - omitted*

## *SECTION 5*

### THE COURT OF JUSTICE OF THE EUROPEAN UNION

*Article 251*

(ex Article 221 TEC)

The Court of Justice shall sit in chambers or in a Grand Chamber, in accordance with the rules laid down for that purpose in the Statute of the Court of Justice of the European Union.

When provided for in the Statute, the Court of Justice may also sit as a full Court.

*Article 252, 253, 254, 255, 256, 257, 258 - omitted*

*Article 259*

(ex Article 227 TEC)

A Member State which considers that another Member State has failed to fulfil an obligation under the Treaties may bring the matter before the Court of Justice of the European Union. Before a Member State brings an action against another Member State for an alleged infringement of an obligation under the Treaties, it shall bring the matter before the Commission.

The Commission shall deliver a reasoned opinion after each of the States concerned has been given the opportunity to submit its own case and its observations on the other party's case both orally and in writing.

If the Commission has not delivered an opinion within three months of the date on which the matter was brought before it, the absence of such opinion shall not prevent the matter from being brought before the Court.

### *Article 260*

(ex Article 228 TEC)

1. If the Court of Justice of the European Union finds that a Member State has failed to fulfil an obligation under the Treaties, the State shall be required to take the necessary measures to comply with the judgment of the Court.

2. If the Commission considers that the Member State concerned has not taken the necessary measures to comply with the judgment of the Court, it may bring the case before the Court after giving that State the opportunity to submit its observations. It shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court finds that the Member State concerned has not complied with its judgment it may impose a lump sum or penalty payment on it.

This procedure shall be without prejudice to Article 259.

3. omitted

*Article 261, 262* - omitted

### *Article 263*

(ex Article 230 TEC)

The Court of Justice of the European Union shall review the legality of legislative acts, of acts of the Council, of the Commission and of the European Central Bank, other than recommendations and opinions, and of acts of the European Parliament and of the European Council intended to produce legal effects *vis-à-vis* third parties. It shall also review the legality of acts of bodies, offices or agencies of the Union intended to produce legal effects *vis-à-vis* third parties.

It shall for this purpose have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Treaties or of any rule of law relating to their application, or misuse of powers.

The Court shall have jurisdiction under the same conditions in actions brought by the Court of Auditors, by the European Central Bank and by the Committee of the Regions for the purpose of protecting their prerogatives.

Any natural or legal person may, under the conditions laid down in the first and second paragraphs, institute proceedings against an act addressed to that person or which is of direct and individual concern to them, and against a regulatory act which is of direct concern to them and does not entail implementing measures.

Acts setting up bodies, offices and agencies of the Union may lay down specific conditions and arrangements concerning actions brought by natural or legal persons against acts of these bodies, offices or agencies intended to produce legal effects in relation to them.

The proceedings provided for in this Article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

### *Article 264*

(ex Article 231 TEC)

If the action is well founded, the Court of Justice of the European Union shall declare the act concerned to be void.

However, the Court shall, if it considers this necessary, state which of the effects of the act which it has declared void shall be considered as definitive.

*Article 265, 266* - omitted

### *Article 267*

(ex Article 234 TEC)

The Court of Justice of the European Union shall have jurisdiction to give preliminary rulings concerning:

(a) the interpretation of the Treaties;

(b) the validity and interpretation of acts of the institutions, bodies, offices or agencies of the Union;

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court to give a ruling thereon.

Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court.

If such a question is raised in a case pending before a court or tribunal of a Member State with regard to a person in custody, the Court of Justice of the European Union shall act with the minimum of delay.

*Article 268*

(ex Article 235 TEC)

The Court of Justice of the European Union shall have jurisdiction in disputes relating to compensation for damage provided for in the second and third paragraphs of Article 340.

*Article 269* - omitted

*Article 270*

(ex Article 236 TEC)

The Court of Justice of the European Union shall have jurisdiction in any dispute between the Union and its servants within the limits and under the conditions laid down in the Staff Regulations of Officials and the Conditions of Employment of other servants of the Union.

*Article 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281*- omitted

## *SECTION 6*

THE EUROPEAN CENTRAL BANK - omitted

## *SECTION 7*

THE COURT OF AUDITORS – omitted

## CHAPTER 2

LEGAL ACTS OF THE UNION, ADOPTION PROCEDURES AND OTHER PROVISIONS

### *SECTION 1*

THE LEGAL ACTS OF THE UNION

*Article 288*

(ex Article 249 TEC)

To exercise the Union's competences, the institutions shall adopt regulations, directives, decisions, recommendations and opinions.

A regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States.

A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

A decision shall be binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.

Recommendations and opinions shall have no binding force.

*Article 289*

1. The ordinary legislative procedure shall consist in the joint adoption by the European Parliament and the Council of a regulation, directive or decision on a proposal from the Commission. This procedure is defined in Article 294.

2. In the specific cases provided for by the Treaties, the adoption of a regulation, directive or decision by the European Parliament with the participation of the Council, or by the latter

with the participation of the European Parliament, shall constitute a special legislative procedure.

3. Legal acts adopted by legislative procedure shall constitute legislative acts.

4. In the specific cases provided for by the Treaties, legislative acts may be adopted on the initiative of a group of Member States or of the European Parliament, on a recommendation from the European Central Bank or at the request of the Court of Justice or the European Investment Bank.

#### *Article 290*

1. A legislative act may delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act.

The objectives, content, scope and duration of the delegation of power shall be explicitly defined in the legislative acts. The essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power.

2. Legislative acts shall explicitly lay down the conditions to which the delegation is subject; these conditions may be as follows:

(a) the European Parliament or the Council may decide to revoke the delegation;

(b) the delegated act may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the legislative act.

For the purposes of (a) and (b), the European Parliament shall act by a majority of its component members, and the Council by a qualified majority.

3. The adjective ‘delegated’ shall be inserted in the title of delegated acts.

#### *Article 291*

1. Member States shall adopt all measures of national law necessary to implement legally binding Union acts.

2. Where uniform conditions for implementing legally binding Union acts are needed, those acts shall confer implementing powers on the Commission, or, in duly justified specific cases and in the cases provided for in Articles 24 and 26 of the Treaty on European Union, on the Council.

3. For the purposes of paragraph 2, the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall lay down in advance the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers.

4. The word ‘implementing’ shall be inserted in the title of implementing acts.

#### *Article 292*

The Council shall adopt recommendations. It shall act on a proposal from the Commission in all cases where the Treaties provide that it shall adopt acts on a proposal from the Commission. It shall act unanimously in those areas in which unanimity is required for the adoption of a Union act. The Commission, and the European Central Bank in the specific cases provided for in the Treaties, shall adopt recommendations.

## **SECTION 2**

### **PROCEDURES FOR THE ADOPTION OF ACTS AND OTHER PROVISIONS**

#### *Article 293*

(ex Article 250 TEC)

1. Where, pursuant to the Treaties, the Council acts on a proposal from the Commission, it may amend that proposal only by acting unanimously, except in the cases referred to in paragraphs 10 and 13 of Article 294, in Articles 310, 312 and 314 and in the second paragraph of Article 315.

2. As long as the Council has not acted, the Commission may alter its proposal at any time during the procedures leading to the adoption of a Union act.

*Article 294*

(ex Article 251 TEC)

1. Where reference is made in the Treaties to the ordinary legislative procedure for the adoption of an act, the following procedure shall apply.

2. The Commission shall submit a proposal to the European Parliament and the Council.

*First reading*

3. The European Parliament shall adopt its position at first reading and communicate it to the Council.

4. If the Council approves the European Parliament's position, the act concerned shall be adopted in the wording which corresponds to the position of the European Parliament.

5. If the Council does not approve the European Parliament's position, it shall adopt its position at first reading and communicate it to the European Parliament.

6. The Council shall inform the European Parliament fully of the reasons which led it to adopt its position at first reading. The Commission shall inform the European Parliament fully of its position.

*Second reading*

7. If, within three months of such communication, the European Parliament:

(a) approves the Council's position at first reading or has not taken a decision, the act concerned shall be deemed to have been adopted in the wording which corresponds to the position of the Council;

(b) rejects, by a majority of its component members, the Council's position at first reading, the proposed act shall be deemed not to have been adopted;

(c) proposes, by a majority of its component members, amendments to the Council's position at first reading, the text thus amended shall be forwarded to the Council and to the Commission, which shall deliver an opinion on those amendments.

8. If, within three months of receiving the European Parliament's amendments, the Council, acting by a qualified majority:

(a) approves all those amendments, the act in question shall be deemed to have been adopted;

(b) does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.

9. The Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion.

*Conciliation*

10. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the members representing the European Parliament within six weeks of its being convened, on the basis of the positions of the European Parliament and the Council at second reading.

11. The Commission shall take part in the Conciliation Committee's proceedings and shall take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

12. If, within six weeks of its being convened, the Conciliation Committee does not approve the joint text, the proposed act shall be deemed not to have been adopted.

*Third reading*

13. If, within that period, the Conciliation Committee approves a joint text, the European Parliament, acting by a majority of the votes cast, and the Council, acting by a qualified majority, shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text. If they fail to do so, the proposed act shall be deemed not to have been adopted.

14. The periods of three months and six weeks referred to in this Article shall be extended by a maximum of one month and two weeks respectively at the initiative of the European Parliament or the Council.

*Special provisions*

15. Where, in the cases provided for in the Treaties, a legislative act is submitted to the ordinary legislative procedure on the initiative of a group of Member States, on a recommendation by the European Central Bank, or at the request of the Court of Justice, paragraph 2, the second sentence of paragraph 6, and paragraph 9 shall not apply.

In such cases, the European Parliament and the Council shall communicate the proposed act to the Commission with their positions at first and second readings. The European Parliament or the Council may request the opinion of the Commission throughout the procedure, which the Commission may also deliver on its own initiative. It may also, if it deems it necessary, take part in the Conciliation Committee in accordance with paragraph 11.

*Article 295*

The European Parliament, the Council and the Commission shall consult each other and by common agreement make arrangements for their cooperation. To that end, they may, in compliance with the Treaties, conclude interinstitutional agreements which may be of a binding nature.

*Article 296*

(ex Article 253 TEC)

Where the Treaties do not specify the type of act to be adopted, the institutions shall select it on a case-by-case basis, in compliance with the applicable procedures and with the principle of proportionality.

Legal acts shall state the reasons on which they are based and shall refer to any proposals, initiatives, recommendations, requests or opinions required by the Treaties.

When considering draft legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the relevant legislative procedure in the area in question.

*Article 297*

(ex Article 254 TEC)

1. Legislative acts adopted under the ordinary legislative procedure shall be signed by the President of the European Parliament and by the President of the Council.

Legislative acts adopted under a special legislative procedure shall be signed by the President of the institution which adopted them.

Legislative acts shall be published in the *Official Journal of the European Union*. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

2. Non-legislative acts adopted in the form of regulations, directives or decisions, when the latter do not specify to whom they are addressed, shall be signed by the President of the institution which adopted them.

Regulations and directives which are addressed to all Member States, as well as decisions which do not specify to whom they are addressed, shall be published in the *Official Journal of the European Union*. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

Other directives, and decisions which specify to whom they are addressed, shall be notified to those to whom they are addressed and shall take effect upon such notification.

*Article 298*

1. In carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration.

2. In compliance with the Staff Regulations and the Conditions of Employment adopted on the basis of Article 336, the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall establish provisions to that end.

### *Article 299*

(ex Article 256 TEC)

Acts of the Council, the Commission or the European Central Bank which impose a pecuniary obligation on persons other than States, shall be enforceable.

Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the government of each Member State shall designate for this purpose and shall make known to the Commission and to the Court of Justice of the European Union.

When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority.

Enforcement may be suspended only by a decision of the Court. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

## CHAPTER 3

THE UNION'S ADVISORY BODIES - omitted

## CHAPTER 4

THE EUROPEAN INVESTMENT BANK – omitted

## TITLE II

### **FINANCIAL PROVISIONS**

*Article 310* – omitted

## CHAPTER 1

THE UNION'S OWN RESOURCES - omitted

## CHAPTER 2

THE MULTIANNUAL FINANCIAL FRAMEWORK - omitted

## CHAPTER 3

THE UNION'S ANNUAL BUDGET - omitted

## CHAPTER 4

IMPLEMENTATION OF THE BUDGET AND DISCHARGE - omitted

## CHAPTER 5

COMMON PROVISIONS

*Article 320, 321* – omitted

*Article 322*

(ex Article 279 TEC)

1. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, and after consulting the Court of Auditors, shall adopt by means of regulations:

- (a) the financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;
- (b) rules providing for checks on the responsibility of financial actors, in particular authorising officers and accounting officers.

2. The Council, acting on a proposal from the Commission and after consulting the European Parliament and the Court of Auditors, shall determine the methods and procedure whereby the budget revenue provided under the arrangements relating to the Union's own resources shall be made available to the Commission, and determine the measures to be applied, if need be, to meet cash requirements.

*Article 323*

The European Parliament, the Council and the Commission shall ensure that the financial means are made available to allow the Union to fulfil its legal obligations in respect of third parties.

*Article 324*

Regular meetings between the Presidents of the European Parliament, the Council and the Commission shall be convened, on the initiative of the Commission, under the budgetary procedures referred to in this Title. The Presidents shall take all the necessary steps to promote consultation and the reconciliation of the positions of the institutions over which they preside in order to facilitate the implementation of this Title.

## CHAPTER 6

### COMBATTING FRAUD – omitted

## TITLE III

### ENHANCED COOPERATION

*Article 326*

(ex Articles 27a to 27e, 40 to 40b and 43 to 45 TEU and ex Articles 11 and 11a TEC)

Any enhanced cooperation shall comply with the Treaties and Union law.

Such cooperation shall not undermine the internal market or economic, social and territorial cohesion. It shall not constitute a barrier to or discrimination in trade between Member States, nor shall it distort competition between them.

*Article 327*

(ex Articles 27a to 27e, 40 to 40b and 43 to 45 TEU and ex Articles 11 and 11a TEC)

Any enhanced cooperation shall respect the competences, rights and obligations of those Member States which do not participate in it. Those Member States shall not impede its implementation by the participating Member States.

*Article 328*

(ex Articles 27a to 27e, 40 to 40b and 43 to 45 TEU and ex Articles 11 and 11a TEC)

1. When enhanced cooperation is being established, it shall be open to all Member States, subject to compliance with any conditions of participation laid down by the authorising decision. It shall also be open to them at any other time, subject to compliance with the acts already adopted within that framework, in addition to those conditions.

The Commission and the Member States participating in enhanced cooperation shall ensure that they promote participation by as many Member States as possible.

2. The Commission and, where appropriate, the High Representative of the Union for Foreign Affairs and Security Policy shall keep the European Parliament and the Council regularly informed regarding developments in enhanced cooperation.

*Article 329*

(ex Articles 27a to 27e, 40 to 40b and 43 to 45 TEU and ex Articles 11 and 11a TEC)

1. Member States which wish to establish enhanced cooperation between themselves in one of the areas covered by the Treaties, with the exception of fields of exclusive competence and the common foreign and security policy, shall address a request to the Commission, specifying the scope and objectives of the enhanced cooperation proposed. The Commission may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so.

Authorisation to proceed with the enhanced cooperation referred to in the first subparagraph

shall be granted by the Council, on a proposal from the Commission and after obtaining the consent of the European Parliament.

2. The request of the Member States which wish to establish enhanced cooperation between themselves within the framework of the common foreign and security policy shall be addressed to the Council. It shall be forwarded to the High Representative of the Union for Foreign Affairs and Security Policy, who shall give an opinion on whether the enhanced cooperation proposed is consistent with the Union's common foreign and security policy, and to the Commission, which shall give its opinion in particular on whether the enhanced cooperation proposed is consistent with other Union policies. It shall also be forwarded to the European Parliament for information.

Authorisation to proceed with enhanced cooperation shall be granted by a decision of the Council acting unanimously.

#### *Article 330*

(ex Articles 27a to 27e, 40 to 40b and 43 to 45 TEU and ex Articles 11 and 11a TEC)

All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote.

Unanimity shall be constituted by the votes of the representatives of the participating Member States only.

A qualified majority shall be defined in accordance with Article 238(3).

#### *Article 331*

(ex Articles 27a to 27e, 40 to 40b and 43 to 45 TEU and ex Articles 11 and 11a TEC)

1. Any Member State which wishes to participate in enhanced cooperation in progress in one of the areas referred to in Article 329(1) shall notify its intention to the Council and the Commission.

The Commission shall, within four months of the date of receipt of the notification, confirm the participation of the Member State concerned. It shall note where necessary that the conditions of participation have been fulfilled and shall adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation.

However, if the Commission considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request. On the expiry of that deadline, it shall re-examine the request, in accordance with the procedure set out in the second subparagraph. If the Commission considers that the conditions of participation have still not been met, the Member State concerned may refer the matter to the Council, which shall decide on the request. The Council shall act in accordance with Article 330. It may also adopt the transitional measures referred to in the second subparagraph on a proposal from the Commission.

2. Any Member State which wishes to participate in enhanced cooperation in progress in the framework of the common foreign and security policy shall notify its intention to the Council, the High Representative of the Union for Foreign Affairs and Security Policy and the Commission. The Council shall confirm the participation of the Member State concerned, after consulting the High Representative of the Union for Foreign Affairs and Security Policy and after noting, where necessary, that the conditions of participation have been fulfilled. The Council, on a proposal from the High Representative, may also adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation. However, if the Council considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request for participation. For the purposes of this paragraph, the Council shall act unanimously and in accordance with Article 330.

*Article 332, 333, 334 – omitted*

## PART SEVEN

### GENERAL AND FINAL PROVISIONS

#### *Article 335*

(ex Article 282 TEC)

In each of the Member States, the Union shall enjoy the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. To this end, the Union shall be represented by the Commission. However, the Union shall be represented by each of the institutions, by virtue of their administrative autonomy, in matters relating to their respective operation.

*Article 336, 337, 338, 339, 340, 341, 342* – omitted

#### *Article 343*

(ex Article 291 TEC)

The Union shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol of 8 April 1965 on the privileges and immunities of the European Union. The same shall apply to the European Central Bank and the European Investment Bank.

*Article 344, 345, 346* – omitted

#### *Article 347*

(ex Article 297 TEC)

Member States shall consult each other with a view to taking together the steps needed to prevent the functioning of the internal market being affected by measures which a Member State may be called upon to take in the event of serious internal disturbances affecting the maintenance of law and order, in the event of war, serious international tension constituting a threat of war, or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

#### *Article 348*

(ex Article 298 TEC)

If measures taken in the circumstances referred to in Articles 346 and 347 have the effect of distorting the conditions of competition in the internal market, the Commission shall, together with the State concerned, examine how these measures can be adjusted to the rules laid down in the Treaties.

By way of derogation from the procedure laid down in Articles 258 and 259, the Commission or any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in Articles 346 and 347. The Court of Justice shall give its ruling *in camera*.

*Article 349, 350, 352* – omitted

#### *Article 352*

(ex Article 308 TEC)

1. If action by the Union should prove necessary, within the framework of the policies defined in the Treaties, to attain one of the objectives set out in the Treaties, and the Treaties have not provided the necessary powers, the Council, acting unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures. Where the measures in question are adopted by the Council in accordance with a special legislative procedure, it shall also act unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament.

2. Using the procedure for monitoring the subsidiarity principle referred to in Article 5(3) of the Treaty on European Union, the Commission shall draw national Parliaments' attention to proposals based on this Article.

3. Measures based on this Article shall not entail harmonisation of Member States' laws or regulations in cases where the Treaties exclude such harmonisation.

4. This Article cannot serve as a basis for attaining objectives pertaining to the common

foreign and security policy and any acts adopted pursuant to this Article shall respect the limits set out in Article 40, second paragraph, of the Treaty on European Union.

*Article 353, 354, 355 – omitted*

*Article 356*

(ex Article 312 TEC)

This Treaty is concluded for an unlimited period.

*Article 357*

(ex Article 313 TEC)

This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The Instruments of ratification shall be deposited with the Government of the Italian Republic.

This Treaty shall enter into force on the first day of the month following the deposit of the Instrument of ratification by the last signatory State to take this step. If, however, such deposit is made less than 15 days before the beginning of the following month, this Treaty shall not enter into force until the first day of the second month after the date of such deposit.

*Article 358*

The provisions of Article 55 of the Treaty on European Union shall apply to this Treaty.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Treaty.

Done at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.