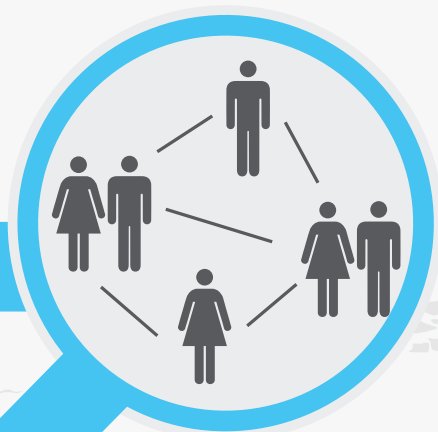


# MIGRANTS IN COUNTRIES IN CRISIS

## SUMMARY PAPER

Humanitarian Aid and Civil  
Protection Policies in the  
European Union and the  
MICIC Agenda

Bernhard Perchinig, Lucas Rasche  
& Katharina Schaur



Project funded by the European Union



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In partnership with IMI



# **Migrants in Countries in Crisis (MICIC)**

## **Summary Paper: Humanitarian Aid and Civil Protection Policies in the European Union and the MICIC Agenda**

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International Centre for Migration Policy Development

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## List of Acronyms

ACP	African Caribbean and Pacific
ADEM	Accompaniment and Defense of Migrants Project
CAA	Crisis Coordination Arrangements
CAR	Central African Republic
CFSP	Common Foreign and Security Policy
COCON	Consular Cooperation Working Party
COHAFA	Working Party on Humanitarian Aid and Food Aid
CSDP	Common Security and Defence Policy
CSO	Civil society organisation
DG CLIMA	Directorate General for Climate Action
DG DEVCO	Directorate General for International Cooperation and Development
DG ECHO	Directorate General for European Civil Protection and Humanitarian Aid Operations
DG HOME	Directorate General for Migration and Home Affairs
DG Justice	Directorate General for Justice and Consumers
DG NEAR	Directorate General for Neighbourhood and Enlargement Negotiations
ECHO	European Commission Humanitarian Office
ECOWAS	Economic Community of West African States
EDF	European Development Fund
EDRIS	Emergency Disaster Response Information System
EEAS	European External Action Service
ENPI	EU Neighbourhood and Partnership Instrument
ERCC	Emergency Response Coordination Centre
EU	European Union
EUFOR	European Union Force
FAO	Food and Agriculture Organization
FPA	Framework Partnership Agreement
GAC	General Affairs Council
HAC	Humanitarian Aid Committee
HDI	Human Development Index
ICMPD	International Centre for Migration Policy Development
IcSP	Instrument contributing to Stability and Peace
IDMC	International Displacement Monitoring Centre
IDP	Internally Displaced People
IFRC	International federation of the Red Cross and Red Crescent Societies
IFS	Instrument for Stability
IMI	International Migration Institute
IOM	International Organization for Migration
IPCR	EU Integrated Political Crisis Response
ISAA	Integrated Situational Awareness and Analysis
KOI	Key Outcome Indicators
MDW	Migrant Domestic Workers
MICIC	Migrants in Countries in Crisis Initiative
NGO	Non-governmental Organisation
OMC	Open Method of Coordination
START	Stabilising at-risk communities and enhancing migration management to enable smooth transitions in Egypt, Tunisia and Libya
TCN	Third Country National

# 1. Introduction

The Migrants in Countries in Crisis (MICIC) Initiative aims at the development of guidelines and repositories of practices to improve the protection and empowerment of migrants living in a country suffering from natural disasters or conflicts. It has produced a large variety of studies and capacity building tools to reach this target.<sup>1</sup> As these studies show, migrants have been among those most seriously affected by a crisis. A variety of factors, ranging from residence status to language barriers or mobility restrictions, may lead to particular vulnerabilities, which have to be taken into account in the development of policies and measures aiming at their protection and empowerment.

The European Union (EU) is a key player in humanitarian aid. According to the IRIN donor report, in 2016, the EU institutions spent EUR 2.76 billion and were the second largest humanitarian aid donor (United States: EUR 5.51 billion). Taken together with the spending of the Member States the EU ranked on first place.<sup>2</sup> The Global Humanitarian Assistance Report 2015, which uses a slightly different accounting system, mentions a spending of EUR 2 billion for 2014, ranking the EU institutions together with the United Kingdom (UK) on place two. This ranking is led by the United States (US) with a spending of EUR 5.27 billion in 2014.<sup>3</sup> The important role of protection policies is also reflected in the existence of a dedicated Directorate General, DG ECHO (Directorate General for European Civil Protection and Humanitarian Aid Operations), responsible for humanitarian aid and civil protection. DG ECHO runs 48 field offices in over 40 non-European countries with a combined staff of some 450 persons, which reflects the high relevance of this policy area for the external relations of the European Union.

Historically, policies relating to the protection of victims of a crisis have been developed at EU level both from the perspective of humanitarian aid and from the perspective of civil protection – two policy fields governed by different institutional settings and guiding paradigms. Humanitarian aid is based on the tradition of humanitarianism, which intentionally neglects criteria like age, gender, ethnicity or citizenship; and is usually delivered by (the local branches of) International (non-governmental) Organisations, e.g. the International Federation of the Red Cross and Red Crescent Societies (IFCR), or *Médecins sans Frontières*.

Other than humanitarian aid, which aims to mitigate the consequences of a disaster or conflict, civil protection concentrates on disaster prevention and preparedness planning. Although the work of civil protection organisations is also based on humanitarian principles, civil protection is usually implemented by state agencies – most often the Ministries of the Interior – without or with limited involvement of humanitarian organisations, and delivery is thus linked to governmental decision making.

Migrants in countries in crises have not been a particular target group of EU protection policies. Neither EU humanitarian aid nor EU civil protection policies focus on specific target groups or status of beneficiaries. On the contrary, impartiality and independence are two of the main pillars guiding the self-understanding of actors and decision making in this policy field, which aims at delivering aid and support based on general criteria of vulnerability, allowing to prioritise those most in need. Following this understanding, actors in this field usually reject measures aimed at targeting specific groups. Other than migrants holding non-EU citizenship, Union Citizens living in third countries, who are not represented by the diplomatic or consular services of their country of nationality, are entitled to specific support by the embassies or consulates of other Member States (Art. 20 (2)c and 23 TFEU). These specific entitlements also include support with regard to evacuation, which is an important issue dealt with in the MICIC Initiative. Stemming from the policy field of Union Citizenship, there is no linkage of this aspect to humanitarian aid policies, which challenges its coherence.

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<sup>1</sup> MICIC case studies include: Central African Republic political unrest of 2013-2014; Côte d'Ivoire political unrest of 2002-2003 and 2010-2011; Libya political unrest of 2011; South Africa xenophobic violence of 2008 and 2015; Thailand natural disaster of 2011 & Lebanon political crisis of 2006. For a detailed overview, see: <https://www.icmpd.org/index.php?id=2895>.

<sup>2</sup> Parker, B. (20 December 2016). *The biggest donors of 2016*. IRIN News. Retrieved from: <https://www.irinnews.org/maps-and-graphics/2016/12/20/biggest-donors-2016>.

<sup>3</sup> Global Humanitarian Assistance (2016). *Global Humanitarian Assistance Report 2015*. Development Initiatives: Bristol, UK. Retrieved from: <http://devinit.org/wp-content/uploads/2015/06/GHA-Report-2015-Interactive-Online.pdf>, p.31.

Given this peculiar legal and institutional framework, a detailed analysis of the history and institutional setting of EU policies on protection of crisis victims is necessary to improve the links between this policy field and the MICIC agenda. The following paper thus analyses the policies and institutional structures of EU humanitarian aid and civil protection policies with a specific view on their potential linkages with the agenda of the MICIC Initiative, and to the improvement of protection and aid for migrants in countries of crises.

The paper starts with a description of the historical development of aid-related policies in the European Union and their legal base. The following chapters look at the relevant institutional settings, the decision-making procedures and analyse the issue framing used in the relevant EU documents. A separate chapter discusses the protection of non-represented Union Citizens in third countries by EU Member States diplomatic or consular services. Finally, an analysis of EU policy measures with regard to the protection of migrants found in the six case studies for the MICIC Initiative illustrates the concrete activities of the European Union with regard to the protection of migrants in countries of crises. The final chapters summarise the main challenges in the policy field and develop policy suggestions for an improved inclusion of the MICIC-recommendations in EU protection policies. Three annexes on terminology, the EU's Integrated Political Crisis Response (IPCR) framework and EU-sponsored and -organised evacuations in Lebanon 2006 and Libya 2014 accompany the study.



## 2. EU Protection Policy as a Policy Field

In political science, a “policy field” or “policy space” is understood as an “institutional field of actors, rules and practices associated with governmental efforts to address a particular category of social issues and problems”.<sup>4</sup> The concept reaches back to a seminal study of policy making in the field of national energy and health policies in the US, which proved, that about three quarters of the key policy actors in this field were outside of the core institutions in this field and highlighted the need to also include them into policy research.<sup>5</sup>

Conceiving a policy field as a set of actors with major concerns about a substantive area, whose preferences and actions must be taken into account by the other participants, allows to overcome an oversimplified understanding of policy making as a rational, solution oriented process. Instead, policy-making is conceived as a process of negotiation of competing interests in a complex network. As Laumann and Knoke observed<sup>6</sup>, policy actors are not acting alone, but are embedded in networks of relationships with other actors, within and outside of governmental institutions. Public policies are the product of complex interactions among and within policy networks, each seeking to influence collectively binding decisions that affect their respective interests.

Policy networks tend to develop a common framing of the issues they are working on and are reluctant to change them. In this process, certain actors might gain more centrality than others and will be able to make their issue-definitions dominant. Nevertheless, the political process in a policy network is not controlled by one actor alone, but rather characterised by the interactions between public and private actors, who are dependent on each other as they need each other's resources to achieve a goal.<sup>7</sup>

Two different types of policy networks are usually distinguished. On the one hand, there are “policy communities” formed by a relatively small number of governmental and interest groups, linked together by regular meetings and exchange. On the other hand, there are “issue communities” formed by a larger pool of actors and stakeholders beyond the core institutions of a policy field.<sup>8</sup> Whereas membership depends on the institutional affiliation in the first type of network, in the second type both institutional actors and non-governmental organisation (NGOs), or individuals holding a stake in a certain policy field, will participate. In policy networks, the perspectives and expectations of actors will tend to converge on given issues, linking the actors into an ‘epistemic community’ characterised by a shared understanding of the world and shared professional ethics.<sup>9</sup> Successful building of policy networks and epistemic communities fosters the forging of coalitions across party cleavages and the

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<sup>4</sup> Boin, M., Ekengren, M. & Rhinard, M. (2006). Protecting the Union: Analysing an Emerging Policy Space. *Journal of European Integration* 28:5, 405 – 421, p.407.

<sup>5</sup> Laumann, E.O. & Knoke, D. (1987). *The organizational state: Social choice in national policy domains*. Madison: University of Wisconsin Press.

<sup>6</sup> Laumann, E.O. & Knoke, D. (1987).

<sup>7</sup> Kriesi, H., Adam, S., & Jochum, M. (2006). Comparative analysis of policy networks in Western Europe. *Journal of European public policy*, 13(3), 341-361.

<sup>8</sup> Thatcher, M. (1998). The development of policy network analyses: from modest origins to overarching frameworks. *Journal of Theoretical Politics* 10/4, 389–416.

<sup>9</sup> According to Haas epistemic communities can be understood as “a network of professionals with recognised expertise and competence in a particular domain and an authoritative claim to policy relevant knowledge within that domain or issue-area”, who can influence policy decisions by cross-referencing to their acceptance among their peers who are recognised as experts in a field. The decisive role of policy networks in EU policy making has been highlighted in European Union studies, where the continuous cooperation and repeated meeting of civil servants from the Member States administrations in professional settings together with civil servants from the European institutions has been identified as the main facilitator of European integration, in particular with regard to EU migration policy making, see: Haas, P. M. (1992). Introduction: Epistemic Communities and International Policy Coordination. *International Organization*, 46/1, 1-35, p. 3; Lewis, J. (1998). Is the “Hard Bargaining” Image of the Council Misleading? *Journal of Common Market Studies*, 36:4, 479-504, p. 495; Guiraudon, V. (2000). European Integration and Migration Policy: Vertical Policy-making as Venue Shopping. *Journal of Common Market Studies*, 38:2, 251-271.

mobilisation of resources across institutionally separated policy domains. On the other hand, networks linked by a shared policy understanding might also become resistant to new ideas and concepts.<sup>10</sup>

In this study, the policy field under investigation encompasses two main areas, humanitarian aid and civil protection. Since the 2000s, crisis management, civil protection and humanitarian aid are linked in a common framework of protection policies in the European Union.<sup>11</sup> As Boin et al. have highlighted, the focus on 'protection' can be identified as the frame binding the actors and policy fields of civil protection and humanitarian action together and defining a core social issue around which policies and institutions have developed.<sup>12</sup> Although institutionally covered by one Directorate General, DG ECHO, both humanitarian aid and civil protection policies in the European Union are rooted in distinctly different institutional frameworks, and they are governed by different legal norms. The protection of unrepresented Union Citizens in third countries is dealt with DG Justice and is only weakly linked to humanitarian aid and civil protection policies.

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<sup>10</sup> Meijerink, S. (2005). Understanding policy stability and change. The interplay of advocacy coalitions and epistemic communities, windows of opportunity, and Dutch coastal flooding policy 1945–2003. *Journal of European Public Policy*, 12(6), 1060-1077.

<sup>11</sup> Boin, M., Ekengren, M. & Rhinard, M. (2006).

<sup>12</sup> Boin, M., Ekengren, M. & Rhinard, M. (2006).

### 3. The Development and Institutional Structure of EU Protection Policies

#### 3.1. The Historical Development of EU Humanitarian Aid Policies

Humanitarian aid was not defined as a competence of the European Community in the founding treaties. Part IV of the Treaty of Rome only gave the Community competence for humanitarian action in the overseas countries and territories and former colonies of the Member States. Only the second Lomé Convention extended the task of the European Community to aid in case of man-made disasters, notably civil wars and ethnic conflicts, and introduced the term 'emergency aid'. Yet, it still limited aid to the ACP (African Caribbean and Pacific) countries.

Whereas the Lomé Convention was still focused on delivering aid to governments of the countries hit by a crisis, since the 1970s the delivery of aid was increasingly outsourced to international NGOs and international organisations in order to directly reach the victims bypassing national governments, which often were regarded as corrupt and ineffective. In 1971, the first separate budget line for humanitarian aid was created by the European Parliament.<sup>13</sup> For the first time, this budget line allowed to deliver aid to countries, which had not been colonies of one of the Member States. At the same time, two aid instruments – one for “aid for refugees and displaced persons” and one for “emergency food aid” were established in the European Commission and managed by DG VIII-Development and DG VI-Agriculture respectively.<sup>14</sup>

It took until the 1990s that the European Commission Humanitarian Office (ECHO) was founded as a specific service for humanitarian aid within the European Commission. In the literature, two main drivers for the establishment of a separate structure have been identified. On the one hand, the Commission wanted to enhance the efficiency of humanitarian aid delivery, and on the other, it saw the need to give room for engagement in humanitarian aid without political interference of the Member States, which usually tried to privilege their former colonies or their political allies.<sup>15</sup>

In the 1990s, the legal base for humanitarian aid was extended and the institutional framework within the European Commission reorganised, making humanitarian organisations, including international governmental and non-governmental organisations, the main implementing partners. The establishment of 'Framework Partnership Agreements' gave those organisations a more regular access to project funding and set clear rules for the evaluation of aid delivery.

In 2004 ECHO was transformed from a Commission Service into a Directorate General, and tasked to serve as the central body for provision and coordination of humanitarian aid and civil protection in the EU, both in emergencies in the Member States and abroad.<sup>16</sup>

As already foreseen by the Draft Constitutional Treaty, the Lisbon Treaty for the first time anchored humanitarian aid in EU primary law, clearly obliging the EU to follow the international principles of humanitarian law in this field. This understanding also guided the 2007 'European Consensus on Humanitarian Aid',<sup>17</sup> which provided both procedural rules and a conceptual framing of EU humanitarian aid policies and remains the central reference document for EU humanitarian aid policies.<sup>18</sup> Since then, humanitarian aid has been firmly anchored in EU policy making.

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<sup>13</sup> De Waele, H. (2017). *Legal Dynamics of EU External Relations. Dissecting a Layered Global Player*. Berlin: Springer 2<sup>nd</sup> edition, p. 129.

<sup>14</sup> Elsuwege, P., Orbie, J. & Bossuyt, F. (2016). *Humanitarian aid policy in the EU's external relations. The post-Lisbon framework*. Sieps Report 3, Stockholm: Swedish Institute for European Policy Studies, p. 16.

<sup>15</sup> Ekengren, M., Matzén, N., Rhinard, M. & Svantesson, M. (2006). Solidarity or Sovereignty? EU Cooperation in Civil Protection. *Journal of European Integration* 28:5, 457 – 476.

<sup>16</sup> Dany, C. (2015). Politicization of Humanitarian Aid in the European Union. *European Foreign Affairs Review* 20/3, 419 – 438, pp. 422.

<sup>17</sup> Council of the European Union (2008). *The European Consensus on Humanitarian Aid*. Joint Statement by the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the European Commission, (2008/C 25/01).

<sup>18</sup> The content of the document will be discussed in chapter 3 of this study.

### 3.2. The Historical Development of EU Civil Protection Policies

Civil protection policies have not been on the agenda of the European Communities until the mid of the 1980s, when, in response to a number of natural disasters on the European continent, cooperation in civil protection was introduced. The establishment of a high level working group on 'civil defence' at a ministerial meeting in May 1985 in Rome laid the foundations for Community co-operation. Between 1985 and 1994 six resolutions creating several operational instruments for preparedness and disaster response followed. Activities were based on the subsidiarity principle, as laid down in the Maastricht Treaty, giving decision powers to the Member States.<sup>19</sup> The 'Resolution on Strengthening Community Cooperation on Civil Protection'<sup>20</sup>, (31 October 1994), which was followed by two action programmes (1998-1999, 2000-2004), further strengthened cooperation of the Member States within an EU framework.

In 1999 the Council of the European Union for the first time passed a 'Solidarity Declaration' aiming to ensure "better protection, primarily of people, but also of the environment and property", urging the Member States to support each other in cases of "major emergencies", defined as terrorism, natural and technological disasters<sup>21</sup>. In the declaration, Member States committed themselves to make civil protection teams of up to 2000 persons available at short notice by 2013<sup>22</sup> and agreed on making civil protection resources available also for the use abroad.<sup>23</sup> Following the terror attacks in New York (2001), Madrid (2004) and London (2005) a 'Community Mechanism'<sup>24</sup> for the compilation and use of Member State resources for both natural disasters and terrorist attacks was developed. It first became operational during the floods in Central Europe (2002) and France (2003), but also served as the legal base for joint EU measures during the earthquakes in Algeria (2003) and Iran (2003), as well as during the Indian Ocean Tsunami (2004) and the oil spill in the Gulf of Mexico (2010).<sup>25</sup>

Despite these developments, it took until 2009 to define the scope and substance of cooperation in Primary Law. The Treaty of Lisbon firmly anchored civil protection in EU primary law: Article 6 TFEU stipulates that civil protection is an area where the Union is competent to carry out support actions and coordinate and supplements actions of the Member States. Article 196 TFEU conferred the right to the European Union to encourage cooperation between Member States and to support and complement Member State's action in responding to natural and man-made disasters within the Union and to promote consistency in international civil protection work. The 'solidarity clause' of Article 222 TFEU established a duty on the Member States to support each other in case of terrorist attacks, natural or man-made disasters.

In 2013, Decision 1313/2013/EU of the Parliament and the Council on a Union Civil Protection Mechanism (UCPM)<sup>26</sup> was passed. The mechanism should address all kinds of natural and man-made disasters in and outside of the EU. As announced in the UCPM legislation, a joint system for the sharing of information on risks and risk management capabilities, the Emergency Response Coordination Centre (ERCC), was established in 2013. Together with the establishment of the European Integrated Political Crisis Response (IPCR) framework in 2013<sup>27</sup>, this led to a stepwise

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<sup>19</sup> Bremberg, N. (2016). *Diplomacy and Security Community-Building. EU crisis management in the Western Mediterranean*. London/New York: Routledge, p.102.

<sup>20</sup> Council of the European Union (1994). *Resolution of the Council and the Representatives of the Governments of the Member States, meeting within the Council of 31 October 1994 on strengthening Community cooperation on civil protection*. (94/C 313/01).

<sup>21</sup> Council of the European Union (1998). *Council Decision of 9 December 1999 establishing a Community action programme in the field of civil protection*. (1999/847/EC).

<sup>22</sup> Ekengren, M., Matzén, N., Rhinard, M. & Svantesson, M. (2006), p. 458.

<sup>23</sup> Ekengren, M., Matzén, N., Rhinard, M. & Svantesson, M. (2006), p. 460.

<sup>24</sup> Council of the European Union (2001). *Council Decision of 23 October 2001 establishing a Community mechanism to facilitate reinforced cooperation in civil protection assistance interventions*. (2001/792/EC, Euratom).

<sup>25</sup> Cremona, M. (2011). The EU and Global Emergencies: Competence and Instruments. In: Antoniadis, A., Schütze, R., & Spaventa, E. (eds.) (2011). *The European Union and Global Emergencies. A Law and Policy Analysis*. Oxford/Portland: Hart Publishing, 11 – 33.

<sup>26</sup> European Parliament (2013). *Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism*. (L 347/924).

<sup>27</sup> See: Annex II.

transfer of competence from the Member States to the European Commission.<sup>28</sup> Although Member States are still independent actors *de jure*<sup>29</sup>, de facto the locus of decision making has been shifted to the EU level, making the European Union, and in particular the European Commission, the central player in response to emergencies for the years to come.

### 3.3. The Legal Base of EU Humanitarian Aid and Civil Protection Policies

Although both humanitarian aid and civil protection policies are meanwhile anchored firmly in EU primary law, different regulations pertain with regard to the role and competencies of the Member States and the European Union institutions in decision making, funding and implementation, which massively impacts the role of different actors in the policy field.

In the field of crisis management and disaster risk reduction, Article 4 (4) TFEU confers the right to the European Union to conduct a common policy in the area of development cooperation and humanitarian aid. These policies are developed alongside the policies of Member States in these fields, thus codifying them as a shared and parallel competence between the Member States and the European Union, which excludes normative effects of EU actions on Member States policies. Although humanitarian aid is a shared competence of the Member States and the Union, Article 214 (6) grants the right to the Commission to coordinate the Union and its Member States and thus establishes the Commission as the driving force. Articles 196, 214 and 222 TFEU contain the most relevant norms with regard to humanitarian aid and civil protection.<sup>30</sup> Article 214 TFEU clearly links EU humanitarian policies to the relevant international law framework, demanding that aid should be provided “in compliance with the principles of international law and with the principle of impartiality, neutrality and non-discrimination”.

Both the EU and the Member States are only entitled to act with agreement of the third country concerned, and have to coordinate their measures with the respective governments, except in cases where a UN Security Council Resolution may authorise the EU directly, or the third country concerned arbitrarily withholds its agreement to having humanitarian aid being delivered. Whereas the ordinary legislative procedure applies to decision making under Article 214, implementing actions have to be decided in the committee-procedure<sup>31</sup>, which enables EU Member States to participate in decision making on humanitarian aid activities that were suggested by DG ECHO. As suggestions of the European Commission, which is the driver for programme development in humanitarian aid, have to be approved by the Member State Representatives in the Humanitarian Aid Committee (HAC), this committee is the central arena for exchange of views and coordination. According to an interview with a DG ECHO representative, projects suggested by the Commission are however usually agreed to.

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<sup>28</sup> Lauts, K. C. (2016). *Disaster Law*. London: Routledge, p.92.

<sup>29</sup> The UCPM is not limited to Member States, but consists of 34 Participating States – the 28 Member States and Iceland, Norway, Serbia, the Former Yugoslav Republic of Macedonia, Montenegro and Turkey.

<sup>30</sup> Attinà, F. (2013). *Merging policies as strategy against emergency threats. The EU's institutional response to disasters, risks and emergencies*. ReShape Online Paper Series Paper 01/13. Catania: University of Catania, pp. 10; Elsuwege, P. & Orbie, J. (2014). The EU's Humanitarian Aid Policy after Lisbon: Implications of a New Treaty Basis. In Govaere, I. & S. Poli (eds.). *EU Management of Global Emergencies. Legal Framework for Combating Threats and Crises*. Leiden: Brill Online, 21 – 46, pp. 24.

<sup>31</sup> The committee-procedure is the core of the so-called comitology process in EU law-making and is based on Article 209 and 291 TFEU. In the comitology-process, decisions on suggestions of the European Commission are discussed in committees including representatives of the European Commission, the European Parliament and the Council. If not agreement is reached, the Commission can either renew the proposal or propose new legislation to the Parliament and the Council under the co-decision procedure. Being more flexible and faster than the co-decision procedure, it is mainly used for amending existing legislation or implementing funding schemes. Due to the involvement of both the Parliament and the Council the comitology-process is one of the main arenas for exchange of information on policy development, funding and project development for the Council and the Parliament, see: Rhinard, M. (2002). The Democratic Legitimacy of the European Union Committee System. *Governance*, 15/2, 185-210; Christiansen, T. & Dobbels, M. (2013). Non-Legislative Rule Making after the Lisbon Treaty: Implementing the New System of Comitology and Delegated Acts. *European Law Journal*, 19:1, 42 – 56.

Only projects and activities below the threshold of ten million Euros do not have to undergo the committee procedure, but are decided upon by the Commission alone.<sup>32</sup> Usually, they are initially worked out in liaison with DG ECHO's field offices, which further strengthens the role of the European Commission.

In the field of civil protection, the Commission has a weaker, yet in practice nevertheless decisive role. Article 196 TFEU lays the base for civil protection policies at the EU level and tasks the Union to encourage cooperation between the Member States in order “to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters”. Other than in humanitarian aid, which is a shared competence of the Member States and the EU, this article limits the role of the EU to coordinate and excludes any harmonisation of the laws of the Member States. Article 196 (2) grants the Commission the right to initiate legislative proposals under the ordinary legislative procedure in order to “establish the measures necessary to help to achieve the objectives referred to in paragraph 1” (improved cooperation of the Member States), which nevertheless enhances the Commission’s political responsibility for policy development.<sup>33</sup>

Thus, since the Treaty of Lisbon humanitarian aid and civil protection cooperation are clearly defined as EU policy areas. Nevertheless, the two fields stay distinct with regard to the implementation of crisis response. Other than in the field of humanitarian aid, where the EU institutions rely on cooperation with international humanitarian organisations and NGOs, in the field of civil protection, where the Commission coordinates the Member States and the deployment of their resources, aid is implemented by government controlled organisations alone.

In addition to the policy areas of humanitarian aid and civil protection, both the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP) refer to disaster response. Article 21 TEU, which regulates foreign policy making of the EU, also contains a provision on disaster response (Art. 21 g) and lays the foundation for disaster response activities in the framework of EU foreign policy making.

Decisions on disaster response actions in the framework of the CFSP have to be taken unanimously by the European Council and the Council of the European Union. Other than humanitarian action based on Article 214 TFEU, CFSP actions are put into effect by the High Representative and the Member States, using national and Union resources, giving the Member States’ political considerations wide room for influence and limiting the role of the European Commission. Whereas humanitarian aid is implemented in a cooperation framework with international humanitarian organisations and NGOs, the CFSP does not foresee their involvement. In humanitarian emergency and disaster situations, which require capabilities only available from the military community, the mobilisation of EU military assets in support of humanitarian operations have to be done in accordance with the internationally agreed civil-military guidelines, which are managed by UN OCHA (United Nations Office for the Coordination of Humanitarian Affairs).<sup>34</sup>

### 3.4. The Institutional Framework

Different bodies at the level of the European Commission, the Parliament and the Council deal with civil protection, humanitarian aid, and CFSP as well as CSDP disaster response activities. At the European Commission, DG ECHO is responsible for Humanitarian Aid and Civil Protection, with some relevance of DG Environment and DG CLIMA (Directorate General for Climate Action) with regard to effects on environmental protection.<sup>35</sup> DG HOME (Directorate General for Migration and Home Affairs) is a core actor with regard to security aspects, and DG Development and DG CLIMA with regard to long term effects. In the case of the CFSP and CSDP dimensions, the EEAS (European External

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<sup>32</sup> Verbal comment provided in response to an earlier draft of the paper by DG DEVCO, DG ECHO, DG JUST, and EEAS, 13.9.2017

<sup>33</sup> Dobbels, M. & Neuhold, C. (2012). ‘The Roles Bureaucrats Play’: The Input of European Parliament (EP) Administrators into the Ordinary Legislative Procedure: A Case Study Approach. *Journal of European Integration* 35:4, 375 – 390.

<sup>34</sup> DG ECHO (14 January 2014). *Civil-military relations in humanitarian crises*. Retrieved from: [https://ec.europa.eu/echo/what/humanitarian-aid/civil-military-relations\\_en](https://ec.europa.eu/echo/what/humanitarian-aid/civil-military-relations_en).

<sup>35</sup> Attiná, F. (2013), p. 4.

Action Service), which is under control of the High Representative of the Union for Foreign Affairs and Security, is the decisive institution.

At the Parliament level, several committees may be concerned, in particular the Development Committee (which is also in charge of humanitarian aid), the Committee on Environment, Public Health and Food Safety; the Foreign Affairs Committee, the Subcommittee on Human Rights, and the Subcommittee on Security and Defence. At the level of the Council, the High Representative and the EEAS, the Political and Security Committee and the Coordinating Committee and the Working Party on Humanitarian Aid and Food Aid (COHAFA) are tasked to deal with emergency response issues.

In practical terms, DG ECHO and the EEAS are central for the development and implementation of crisis management policies. Their role and relationship are examined below.

### 3.5. Structure and Stakeholders of DG ECHO

At the European Commission level, DG ECHO is the core institution implementing humanitarian aid and civil protection policies and programmes. DG ECHO provides emergency assistance and support to the most vulnerable people in disaster-prone regions, supported by a network of field offices, which are tasked to ensure the quality of DG ECHO's response in the country and to assist in the form of provision of in-kind assistance, equipment or teams of experts. In the implementation of measures, DG ECHO relies on cooperation with the government of the state concerned.<sup>36</sup>

The majority of the staff of DG ECHO is employed in field offices (2015: 465 field staff; 344 staff in Brussels headquarters).<sup>37</sup> The network of field offices delivers continuous assessment of the humanitarian needs of the countries and regions concerned, which determines the size and budget of the field offices. The network is also tasked with the development of humanitarian intervention strategies, the provision of technical support and the monitoring of the implementation of EU funded projects<sup>38</sup>.

DG ECHO's budget covers humanitarian aid and civil protection activities and emergency support within the European Union and in third countries. For 2016, a total budget of EUR 1.8 billion was spent. Of the total budget, approximately EUR 1.5 billion were spent for humanitarian aid, food assistance and disaster preparedness (both within and outside of the Union). The Director General of DG ECHO has been delegated the powers by the Commission to decide, on behalf and in the name of the Commission, on any relevant humanitarian aid activities up to a budget of EUR 10 million, based on suggestions from the field offices.<sup>39</sup> Most of the funding is spent in third countries, while funding within the EU only concerned some EUR 240 million for the Instrument for Emergency Support, and some EUR 48 million for the EU Civil Protection Mechanism.<sup>40</sup>

DG ECHO does not provide humanitarian aid directly, but funding is spent for projects implemented by around 200 partner organisations – mainly international NGOs, international organisations and UN agencies, which deliver humanitarian assistance activities on the ground. The details and evaluation of projects are reported in the annual reports of DG ECHO. Contributions of the Member States and the EU are tracked in the European Emergency Disaster Response Information System (EDRIS).

In 2015, 47% of the funding was implemented by NGOs, 39% by UN agencies and 13% by International Organisations. Some 44% of the funding was spent in Africa, 37% in the Middle East and the European Neighbourhood, and 8% in Asia and the Pacific region. In recent years, both Member States and DG ECHO tended to be active and fund NGOs in all regions in a parallel way, proving

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<sup>36</sup> Attinà, F. (2013), p. 5.

<sup>37</sup> European Commission (2016e). *Annual report of the European Union's humanitarian aid and civil protection policies and their implementation in 2015*. Report from the Commission to the European Parliament and the Council, COM (2016) 751 final, p. 23.

<sup>38</sup> DG ECHO (2016a). *ECHO Field Network*. ECHO Factsheet. Retrieved from: [http://ec.europa.eu/echo/files/aid/countries/factsheets/thematic/fieldnetwork\\_en.pdf](http://ec.europa.eu/echo/files/aid/countries/factsheets/thematic/fieldnetwork_en.pdf).

<sup>39</sup> EU-A-02; Verbal comment provided in response to an earlier draft of the paper by DG DEVCO, DG ECHO, DG JUST, and EEAS on 13 September 2017.

<sup>40</sup> For an overview of DG ECHO's budget, see: [http://ec.europa.eu/echo/sites/echo-site/files/2016\\_budget.pdf](http://ec.europa.eu/echo/sites/echo-site/files/2016_budget.pdf).

improved cooperation between Member States, the Commission and NGOs, which was driven by ongoing emergencies and existing needs.<sup>41</sup>

### 3.6. The Role of Framework Partnership Agreements

Only organisations accepted as 'humanitarian partners' may receive funding for humanitarian aid. In order to be approved as a partner organisation, organisations must apply for a Framework Partnership Agreement (FPA).<sup>42</sup> Partners are selected based on specific criteria, legal and financial requirements and quality standards laid down in the Regulation on Humanitarian Aid.<sup>43</sup>

A complex set of rules aiming at the development of a quality partnership governs the procurement, implementation and evaluation of FPAs. The Framework Partnership Agreement with Humanitarian Organisations lays down the minimum standards for the preparation and implementation of actions and demands the description of results "through specific, measurable, achievable, relevant and time bound indicators," (Art. 5a). Measures have to be implemented with due regard "to the specific needs of different groups of affected persons (notably women, girls, boys, men, older persons, persons with disabilities)" (Art. 5c).

To measure the impact of projects, a list of standard sectoral key outcome indicators (KOI) is used.<sup>44</sup> They focus on traditional humanitarian indicators, e.g. the crude mortality rate, the percentage of 6-23 months old children receiving a minimum acceptable diet, or the percentage of school-aged children accessing good quality learning opportunities. The indicators do not reflect migration as such, but are general indicators of vulnerability. Only the indicator percentage "of target population living in safe and dignified shelters in secure settlements" refers to displacement in case of a crisis.<sup>45</sup>

### 3.7. The VOICE Network

About half of the ECHO partners in the field of humanitarian aid are organised in the EU-sponsored NGO platform VOICE (Voluntary Organisations in Cooperation in Emergencies), which is the main political partner in the NGO world and the main stakeholder-network for DG ECHO. VOICE understands itself as "a collective European NGO response to humanitarian crises" and "the main NGO interlocutor with the European Union on emergency aid and disaster risk reduction".<sup>46</sup> VOICE assembles the main national organisations in the field of humanitarian aid. Although the VOICE network is the main NGO umbrella organisation advocating for common interests of its members in the field of humanitarian policies, individual organisations are also engaged in advocacy at the EU level. Most prominently Oxfam, *Médecins Sans Frontiers*, the Christian churches based EU-CORD network, the Norwegian Refugee Council, and the Global Justice Centre, which all have their liaison offices in Brussels.

VOICE has two main roles: on the one hand, it is involved in consultations with DG ECHO on the guidelines and regulations for the Framework Partnership Agreements, on the other it acts as the organiser of the Framework Partnership Agreements Watch Group, evaluating the practices of the FPAs. In this double function as advisor to, and watchdog of, the Commission, VOICE has to be seen as one of several EU-funded umbrella organisations created by the Commission since the 1990s. These Commission-initiated NGO-networks were installed with the aim of increasing the legitimacy of

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<sup>41</sup> Irrera, D. (2014). NGOs and humanitarian aid policy: continuity or change? In: Filipiak, A., Kania, E., Van den Bosch, J. & Wiśniewski, R. (eds.). *Evolving dependency relations*. Poznań: Revolutions Research Center, pp. 115.

<sup>42</sup> DG ECHO (2014). *Framework Partnership Agreement with Humanitarian Organisations*. FPA – 01/01/2014. Retrieved from: [http://dgecho-partners-helpdesk.eu/reference\\_documents/start#fpa\\_and\\_annexes](http://dgecho-partners-helpdesk.eu/reference_documents/start#fpa_and_annexes).

<sup>43</sup> Council of the European Union (1996). *Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid*. (L 163/1).

<sup>44</sup> DG ECHO (2016b). *List of Outcome Indicators (KOI) & details*. Retrieved from: [http://dgecho-partners-helpdesk.eu/reference\\_documents/start#fpa\\_and\\_annexes](http://dgecho-partners-helpdesk.eu/reference_documents/start#fpa_and_annexes).

<sup>45</sup> DG ECHO (2016b), p. 1.

<sup>46</sup> Dany, C. (2015), p. 423.



the proposals of the Commission and should bridge the gap between EU citizens and Brussels.<sup>47</sup> This development has culminated in the duty of the European Commission to regularly consult with NGOs laid down in Article 11 of the Treaty of Lisbon.<sup>48</sup>

There are no studies available on the relationship between NGOs and the European Commission in the field of humanitarian aid with its peculiar institutional setting. Yet a study of the role of European NGO umbrella organisations in agricultural, environmental and anti-poverty policies has shown that the factual influence of NGOs, at least in these fields, seems to be limited. According to the study, Commission officials would follow their own institutional interests and related NGOs would often not be able to mediate between the EU and its citizens as hoped by some normative theorists, but would be used by the Commission to legitimate its decisions.<sup>49</sup>

### 3.8. The Relationship between DG ECHO and EEAS

DG ECHO's main cooperation partners within the EU institutional framework is the EEAS, the 'diplomatic service' of the European Union. The EEAS is involved in all phases of crisis management and preparedness planning, from crisis identification to post-crisis recovery and rehabilitation.<sup>50</sup>

The EEAS regulations entered into force in 2009, and the service opened its offices in 2011. Major conflicts between the Member States and the Commission accompanied the birth of the EEAS. Particularly in the field of development policies, the Commission opposed any intended transfers of its competencies to the new Services, which was fighting for competencies to legitimate its existence.<sup>51</sup>

Similar tensions arose in the field of humanitarian aid, where the lack of a clear separation of competencies between DG ECHO and the EEAS was a main issue of concern. While DG ECHO argued that humanitarian aid was a prerogative of the Commission and decision making should only follow humanitarian principles – a position supported by the NGO world and several Member States – the Union's High Representative argued that the duty to ensure the overall political coordination of the Union's external action would also extend to aid. When the newly appointed Managing Director for Crisis Response and Operational Coordination within EEAS depicted his 2011 mission to Libya, which included a meeting with the Libyan National Transitional Council as a 'humanitarian mission', DG ECHO accused the EEAS of an undue politicisation of the EU's humanitarian assistance. Similar tensions arose when EEAS took the coordination role in the case of the 2011 famine in the Horn of Africa.

Following these tensions, an evaluation of the EEAS suggested to better clarify the responsibilities of both institutions.<sup>52</sup> New rules for cooperation between DG ECHO and the EEAS were laid down in the 'Working Arrangement between Commission Services and the EEAS'.<sup>53</sup> The working arrangements foresaw an extremely flexible division of responsibilities, giving the lead to DG ECHO in the case of

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<sup>47</sup> Bellamy, R. & Kröger, S. (2013). Representation Deficits and Surpluses in EU Policy-Making. *Journal of European Integration* 35:5, 477 – 497, p. 490; Irrera, D. & Attinà, F. (2009). *Civil society and NGOs in EU's crisis management and humanitarian interventions*. Paper presented to the UACES Conference: Exchanging Ideas on Europe 2009 - Views from France, Views Beyond the Mainstream. Angers, Loire Valley, France 3-5 September 2009, pp. 5.

<sup>48</sup> Versteegh, C.R.M. (2011). *Civil society under the Treaty of Lisbon: relationship between national public benefit organizations and European Union policy?* Nonprofit Policy Forum, 2(2), 1 – 7, p.4.

<sup>49</sup> Kröger, S. (2013). Creating a European Demos? The Representativeness of European Umbrella Organisations. *Journal of European Integration* 35/2015, 583 – 600.

<sup>50</sup> Attinà, F. (2013), p. 5.

<sup>51</sup> Helwig, N., Ivan, P. & Kostanyan, H. (2013). *The new EU foreign policy architecture. Reviewing the first two years of the EEAS*. Brussels: Centre for European Policy Studies (CEPS), p. 39.

<sup>52</sup> Helwig, N., Ivan, P. & Kostanyan, H. (2013), pp. 40.

<sup>53</sup> European Commission (2012a). *Working Arrangement between Commission Services and the European External Action Service (EEAS) in Relation to External Relation Issues*. Secretariat General, (SEC (2012) 248).

natural disasters and man-made crisis impacting security in the EU, and EEAS in the case of impacts on external relations.<sup>54</sup>

The regulations required DG ECHO field offices to keep close contact with the respective EU delegations and regularly brief the Head of Delegations in order to ensure compatibility with other EU programmes. But whereas DG ECHO field offices were 'required' to cooperate, the Head of Delegations were only 'encouraged' to involve DG ECHO employees in internal as well as other relevant meetings. This hierarchical imbalance further fuelled tensions between the EEAS and DG ECHO. As a consequence the staff members of DG ECHO, whose humanitarian mandate obliges them to abstain from any political involvement, tried to keep a profile as independent donor and limited their contact to the EU Delegations. "In practice, humanitarian experts in the field will be careful in their contacts with EU Delegations, in the sense that they do not want to be closely associated with the EU's political mandate".<sup>55</sup>

Yet the independence of humanitarian aid from other policy areas stays disputed. Whereas the peer-evaluation of the European Commission by the OECD suggested that the Commission should take a stronger lead *vis-à-vis* the Member States<sup>56</sup>, the evaluation of the implementation of the European Consensus by the VOICE network complained about a gap between rhetoric and actual practice regarding the independence of humanitarian aid.<sup>57</sup> According to this evaluation, the independence of humanitarian decisions from other government priorities would not be sufficiently guaranteed within the existing framework.<sup>58</sup>

It has to be seen if this highly fragile balance of powers between the EEAS and the Commission will deliver more comprehensive humanitarian aid and civil protection responses in practice. Yet, similar arrangements that are tasking different directorates with different responsibilities in the same policy area have thus far not proven highly successful with regard to effectiveness and efficiency in the field of development policies.<sup>59</sup>

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<sup>54</sup> Elsuwege, P. & Orbie, J. (2014). The EU's Humanitarian Aid Policy after Lisbon: Implications of a New Treaty Basis. In Govaere, I. & S. Poli (eds.). *EU Management of Global Emergencies. Legal Framework for Combating Threats and Crises*. Leiden: Brill Online, 21 – 46, p. 40.

<sup>55</sup> Elsuwege, P. & Orbie, J. (2014), p. 40.

<sup>56</sup> OECD (2012). *European Union DAC Peer Review: Main Findings and Recommendations*. Retrieved from: <http://www.oecd.org/dac/peer-reviews/europeanunion2012dacpeerreviewmainfindingsandrecommendations.htm>, p.96.

<sup>57</sup> VOICE (2014a). *The European Consensus on Humanitarian Aid: A NGO Perspective*. Brussels: VOICE. Retrieved from: [https://www.eu-cord.org/2015/wp-content/uploads/2015/02/study\\_consensus\\_humanitarian\\_aid.pdf](https://www.eu-cord.org/2015/wp-content/uploads/2015/02/study_consensus_humanitarian_aid.pdf), p. 18.

<sup>58</sup> VOICE (2014b). *EU Crisis Management - A Humanitarian Perspective*. Briefing Paper. Brussels: VOICE. Retrieved from: [www.alnap.org/pool/files/voice-eu-crisismgmt-2001-04.pdf](http://www.alnap.org/pool/files/voice-eu-crisismgmt-2001-04.pdf), p. 38.

<sup>59</sup> Tannous, I. (2013). The Programming of EU's External Assistance and Development Aid and the Fragile Balance of Power between EEAS and DG DEVCO. *European Foreign Affairs Review* 18 (3) 2013, 329 – 354.

## 4. The Framing of Humanitarian Aid and Civil Protection in the European Union

At the UN level, international cooperation on disaster and crisis management reaches back to 2000, when the UN General Assembly adopted the 'International Strategy for Disaster Reduction' and established the United Nations Office for Disaster Risk Reduction (UNISDR). UNISDR serves as the focal point for coordination and to ensure synergies among the disaster reduction activities of the United Nations system.

UNISDR was the driving force behind the World Conference for Disaster Reduction, which took place in Hyogo from 18-22 January 2005. At the conference, the participants agreed to the first common system of international coordination on disaster management, the Hyogo Framework of Action.<sup>60</sup> The framework centred around two core concepts: a) disaster preparedness based on a set of indicators for early warning and risk reduction on the one hand, and b) the building of a culture of safety and resilience as the central element of the preparation of societies for effective responses on the other.

In recent years, academics and development actors have increasingly questioned the institutional delivery of aid towards vulnerable groups in case of a crisis as paternalistic and unsustainable<sup>61</sup>, arguing that it would not reflect the agency of people affected and would shut its eyes to the conditions of a group or society prone to disaster risk. In this debate, the concept of resilience – defined as “the ability of a system, community or society exposed to hazards to resist, absorb, accommodate to and recover from the effects of a hazard in a timely and efficient manner, including through the preservation and restoration of its essential basic structures and functions”<sup>62</sup> – gained growing relevance. This debate also prominently influenced the Sendai Framework for Disaster Risk Reduction 2015-2030<sup>63</sup>, which was adopted by the UN on 18 March 2015, as a successor to the Hyogo Framework. The Sendai Framework is based on a shift from disaster management aimed at improving remedial action to disaster risk governance based on increasing resilience, community empowerment and an all-of-government approach in preparedness-planning.

Both documents have significantly influenced EU discourses and policy making in the field of humanitarian aid and civil protection, in particular the 'European Consensus on Humanitarian Aid', which together with the 'Action Plan'<sup>64</sup> and the 'Implementation Plan of the European Consensus on Humanitarian Aid 2015'<sup>65</sup> are the main reference documents for EU humanitarian aid policies.

The Consensus both provides procedural rules and a conceptual framing of EU humanitarian aid policies. The Consensus clearly supports the fundamental independence of humanitarian aid from policy considerations: Paragraph 10 demands upholding and promoting “the fundamental humanitarian principles of humanity, neutrality, impartiality and independence”, whereas Paragraph 15 prohibits a linkage between crisis management and humanitarian aid, clearly stating that “EU humanitarian aid is not a crisis management tool”. These Paragraphs reflect the long-standing tradition of political neutrality and independence of humanitarian aid organisations and their pronounced distance from politics. With regard to the procedural aspects, needs-based emergency response in the case of man-made crises and natural disasters are defined as the core task of EU humanitarian aid policies (Par. 8).

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<sup>60</sup> UNISDR (2005). Hyogo Framework for Action 2005 - 2015. *Building the Resilience of Nations and Communities to Disasters*. Geneva: UNISDR. Retrieved from: <http://www.preventionweb.net/publications/view/1037>.

<sup>61</sup> Barnett, M. & Walker P. (2015). Regime Change for Humanitarian Aid: How to Make Relief More Accountable. *Foreign Affairs* 94/2015, 130 – 145.

<sup>62</sup> UNISDR (2009). *UNISDR Terminology on Disaster Risk Reduction*. Geneva: United Nations. Retrieved from: [http://www.unisdr.org/files/7817\\_UNISDRTerminologyEnglish.pdf](http://www.unisdr.org/files/7817_UNISDRTerminologyEnglish.pdf).

<sup>63</sup> UNISDR (2015). *Sendai Framework for Disaster Risk Reduction 2015 – 2030*. Geneva: UNISDR. Retrieved from: <http://www.unisdr.org/we/coordinate/sendai-framework>.

<sup>64</sup> Commission of the European Communities (2008). *European Consensus on Humanitarian Aid – Action Plan*. Commission Staff Working Paper, SEC (2008)1991.

<sup>65</sup> European Commission (2015). *Implementation Plan of the European Consensus on Humanitarian Aid*. Commission Staff Working Document, SWD (2015) 269 final.

As civil protection organisations usually are under some control of governments, humanitarian aid actors are keen to safeguard their independence also in cooperation. The Consensus supports this view stating that the principles of neutrality, humanity, impartiality and independence have to be safeguarded when civil protection or military assets are used (Par. 57). In complex emergencies<sup>66</sup> “recourse to civil protection assets should rather be the exception”, as their usage could risk compromising neutrality and impartiality of the relief efforts (Art. 60). Military assets should only be used as “methods of last resort” (Par. 61), and their usage should not jeopardize the civilian nature and character of the relief operation (Par. 63).

Following the international debate on the lack of sustainability of humanitarian aid, the concept of ‘resilience’ also received growing attention in EU humanitarian aid policies since the early 2010s. In its 2012 ‘Communication on the EU Approach to Resilience’<sup>67</sup>, the Commission defined activities to increase resilience as a central aim of EU external assistance. Stressing the cost-effectiveness and sustainability of resilience-building, the Communication demands a new focus on the root causes of recurrent crises instead of remedial action, which would not only be better for the people concerned, but also cheaper. In this context, the ‘Action Plan for Resilience in Crisis Prone Countries’ stresses the empowerment of the concerned population and suggests focusing on “the most vulnerable populations and households, taking into account the diversity of needs of women, children, men and the elderly, who may suffer from multiple factors of vulnerability, living in areas most exposed to risks”<sup>68</sup>. Finally, the ‘Action Plan on the Sendai Framework for Disaster Risk Reduction 2015-2020’<sup>69</sup> demands the mainstreaming of a disaster-informed approach into all EU policies and sets “investing disaster risk reduction for resilience” as a priority.

The new focus on resilience has also inspired the development of an indicator-system for the definition of vulnerability, which is used as a base for decision-making on the delivery of humanitarian aid by DG ECHO. The ‘Resilience Marker Assessment Card’ employs a procedural concept of vulnerability, defining vulnerability as the degree of affectedness by an identified hazard and the coping capacities available to population groups.<sup>70</sup> Here the shift from an attribute-centred to a procedural understanding of vulnerability is most visible. EU documents from the early 2000s<sup>71</sup> defined vulnerability by certain attributes – most often gender, age, disability, and/or proximity to a crisis area. This static, attribute-based understanding of vulnerability has been replaced by a procedural concept, based on an evaluation of the coping capabilities of groups and persons affected by a crisis. In the ‘Resilience Marker Assessment Card’, resilience and coping capabilities replace attributes like age or gender as the main criteria to define vulnerability. This procedural understanding meanwhile is also reflected in the INFORM Index for Risk Management, which is used by the European Commission to identify the risk to humanitarian crisis and disaster for a country. This index uses a procedural concept of vulnerability based on three dimensions of risk – natural and man-made hazard exposure, population vulnerability and national coping capacity. Balancing the hazard and exposure dimension on one side with the vulnerability and lack of coping capacity dimension on the other, the dimension of vulnerability

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<sup>66</sup> A ‘complex emergency’ is defined by OCHA as “a humanitarian crisis in a country, region or society where there is total or considerable breakdown of authority resulting from internal or external conflict and which requires an international response that goes beyond the mandate or capacity of any single agency and/or the ongoing United Nations country program”, see: Office for the Coordination of Humanitarian Affairs (OCHA) (1999). *OCHA Orientation Handbook on Complex Emergencies*. New York: UN-OCHA. Retrieved from:

[https://reliefweb.int/sites/reliefweb.int/files/resources/3D153DA3049B322AC1256C30002A9C24-ocha\\_orientation\\_handbook\\_on\\_.html](https://reliefweb.int/sites/reliefweb.int/files/resources/3D153DA3049B322AC1256C30002A9C24-ocha_orientation_handbook_on_.html).

<sup>67</sup> European Commission (2012b). *The EU Approach to Resilience: Learning from Food Crises*. Communication from the Commission to the European Parliament and the Council, COM (2012) 586 final, p. 3.

<sup>68</sup> European Commission (2013a). *Action Plan for Resilience in Crisis Prone Countries 2013 – 2020*. Commission Staff Working Document, SWD (2013) 227 final, p. 3.

<sup>69</sup> European Commission (2016a). *Action Plan on the Sendai Framework for Disaster Risk 2015-2030. A disaster risk-informed approach for all EU policies*. Commission Staff Working Document, SWD (2016) 205 final/2.

<sup>70</sup> European Commission (2014). *Resilience Marker Assessment Card*. Retrieved from: [http://ec.europa.eu/echo/files/policies/resilience/resilience\\_assesment\\_card\\_en.pdf](http://ec.europa.eu/echo/files/policies/resilience/resilience_assesment_card_en.pdf).

<sup>71</sup> See: European Commission (2012b).

is said to consider both “the strength of the individuals and households relative to a crisis situation, and the lack of coping capacity”.<sup>72</sup>

The INFORM index defines vulnerability as the “intrinsic predispositions of an exposed population to be affected, or to be susceptible to the damaging effects of a hazard”.<sup>73</sup> Two sets of indicators are used to measure vulnerability, one concerning ‘socio-economic vulnerability’, the other ‘vulnerable groups’. While ‘socio-economic vulnerability’ is measured by indicators on development and deprivation, inequality and aid dependency; the category ‘vulnerable groups’ is broken up into the two subcategories a) ‘uprooted people’ and b) ‘other vulnerable groups’. The lack of coping capacity is measured by a list of indicators on infrastructure and institutional capacities.<sup>74</sup> Following these considerations, disaster risk reduction is understood as a combination of impact mitigation and resilience building, requiring “a multifaceted strategy and a broad systems perspective aimed at both reducing the multiple risks of a crisis and at the same time improving rapid coping and adaptation mechanisms at local, national and regional level”.<sup>75</sup>

The socio-economic vulnerability dimension is further split into a number of numerical indicators, including i.e. development and socio-economic inequality indicators, gender inequality or aid dependency. Indicators to measure the dimension are based on the Human Development Index (HDI), World-Bank and other data from international organisations. ‘Vulnerable groups’ are defined as ‘uprooted people’ and ‘other vulnerable groups’, whereby the dimension ‘uprooted people’ is measured by the relative and the absolute number of refugees, returned refugees and Internally Displaced People (IDP) based on data provided by United Nations High Commissioner for Refugees (UNHCR), the International Displacement Monitoring Centre (IDMC) and the World Bank.<sup>76</sup> The category ‘other vulnerable groups’ concerns persons with defined health conditions (HIV, TBC, Malaria), children under five, as well as recent shocks and food insecurity.<sup>77</sup> Migrants as such are not included as a specifically vulnerable group, but the multifaceted understanding of vulnerability combining several criteria, which guides the INFORM model might well open up the opportunity to include criteria defining migrants in countries of crises.

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<sup>72</sup> Index for Risk Management (INFORM) (n.d.). *Methodology*. Retrieved from: <http://www.inform-index.org/InDepth/Methodology>.

<sup>73</sup> See: Index for Risk Management (INFORM) (n.d.).

<sup>74</sup> See: Index for Risk Management (INFORM) (n.d.).

<sup>75</sup> European Commission (2016b). *The EU Approach to Resilience: Learning from Food Security Crises*. Communication from the Commission to the European Parliament and the Council, COM (2016) 586 final, p. 5.

<sup>76</sup> Groeve, T.D., Poljansek K. & Vernaccini, L. (2016), p. 45.

<sup>77</sup> Groeve, T.D., Poljansek K. & Vernaccini, L. (2016), p. 40.

**Table 1: The INFORM Model:**

**Table 1: INFORM model**

Risk	INFORM																
Dimensions	Hazard & Exposure				Vulnerability				Lack of Coping Capacity								
Categories	Natural		Human		Socio-Economic		Vulnerable Groups		Institutional		Infrastructure						
Components	Earthquake	Tsunami	Flood	Tropical cyclone	Drought	Current Conflict Intensity	Projected Conflict Intensity	Development & Deprivation (50%)	Inequality (25%)	Aid Dependency (25%)	Uprooted People	Other Vulnerable Groups	DRR	Governance	Communication	Physical Infrastructure	Access to Health System

Source: Groeve, T.D., Poljansek K. & Vernaccini, L. (2016). *Index for Risk Management – INFORM. Concept and Methodology*. JRC Scientific and Policy Reports. European Commission, p. 4.

Finally, a process-centred understanding of vulnerability also defines the policy guidelines on humanitarian protection published by DG ECHO, which link humanitarian aid and civil protection into a common framework.<sup>78</sup> In this document humanitarian protection is defined as “addressing violence, coercion, deliberate deprivation and abuse for persons, groups and communities in the context of humanitarian crises, in compliance with the humanitarian principles of humanity, neutrality, impartiality and independence”.<sup>79</sup>

Defining risk as a relationship between threats, vulnerabilities and capacities, this document also favours a context-specific and process related understanding of risk. Abstaining from a simplistic conception of vulnerability, vulnerability is conceived in relation to capacity. In this respect, mobility is analysed as both a vulnerability and capacity: “Certain issues, for example displacement, could be considered a threat, vulnerability, or a capacity depending on the scenario, the population concerned and the moment in time. While being displaced is most often considered as a vulnerability, the ability to remove oneself from a threat could also be considered a capacity, and likewise the danger of displacement, including arbitrary displacement, can be a real or perceived threat before it happens or during the actual displacement”.<sup>80</sup>

In order to improve disaster preparedness, the document suggests community targeting as method of identification of vulnerable groups and households. The document employs a process-related definition of vulnerability as the reduction of the ability to react on adverse impacts, which may be caused by life circumstances as well as physical or social characteristics, and denies its usage as a personal attribute: “Vulnerability is not a fixed criterion attached to specific categories of people, and no one is born vulnerable per se”.<sup>81</sup> In order to implement this understanding the document suggests to base future DG ECHO activities on a vulnerability analysis based on a list of criteria measuring both risks and coping capacities. Protection-sensitive vulnerability targeting should be made possible using a newly developed ‘Coping Strategy Index’. This index should identify coping strategies and mechanisms including self-protection strategies used by communities, households and individuals to maintain their lives and livelihoods and thus allow a more targeted delivery of aid.

<sup>78</sup> European Commission (2016c). *Humanitarian Protection. Improving protection outcomes to reduce risks for people in humanitarian crises*. DG ECHO Thematic Policy Documents, No. 8.

<sup>79</sup> European Commission (2016c), p. 34.

<sup>80</sup> European Commission (2016c), p. 52.

<sup>81</sup> European Commission (2016c), p. 51.

The humanitarian aid community has not only welcomed the shift towards resilience-building though. Critics have pointed to the fact that the focus on resilience might well be in conflict with the core principles of humanitarian aid, particularly the need to deliver aid to the most vulnerable – who need not necessarily be the most resilient. Referring to the ‘Communication on Resilience’, which mentions that fostering resilience might be cheaper than only responding to the consequences of a crisis<sup>82</sup>, critics have also rejected the economic reasoning and further articulated the fear that the delivery of aid might be limited by investments in resilience building. Furthermore, the concept is criticised as blurring the boundaries between humanitarian aid and development and thus fostering a politicisation of aid.<sup>83</sup>

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<sup>82</sup> European Commission (2016b), p. 3.

<sup>83</sup> Dany, C. (2015), p. 434.

## 5. Humanitarian Aid, Civil Protection and the Foreign Policy of the European Union – Challenges and Opportunities

Other than humanitarian aid policy, which has been defined as a community policy subject to the normal legislative procedure by the Treaty of Lisbon, the Common Foreign and Security Policy and the Common Security and Defence Policy are intergovernmental policy areas. CFSP and CSDP activities are based on joint cooperation of the Union and Member States and are not overseen by the Commission or the Parliament, but by the High Representative and the Council. Whereas in humanitarian aid policies the European Commission is the core actor, this arrangement gives the Member States the dominant role in policy making with regard to the CFSP.

The specificities of the legal foundations of humanitarian aid in the Treaties with regard to the link to CFSP and CSDP have given rise to a debate on potential tensions between international human rights principles and EU humanitarian aid policies.

According to Article 3 (5) and Article 21 (1) TFEU the external action of the European Union has to be based upon the strict observance of International Law. Furthermore, Article 214 TFEU clearly links the humanitarian aid policy of the European Union into the broader framework of International Humanitarian Law. According to the 'European Consensus on Humanitarian Aid' impartiality requires aid to be delivered "solely on the basis of need, without discrimination between or within affected populations", and respect for independence entails "the autonomy of humanitarian objectives from political, economic, military or other objectives".<sup>84</sup>

Article 214 (2) TFEU regulating EU humanitarian aid does not directly refer to independence as a fundamental principle guiding the EU's humanitarian aid policies. This omission is caused by the fear of Member States that the principle of independence might prevent the development of a 'more comprehensive approach' in response to crisis situations and could thus "open a Pandora's Box".<sup>85</sup> The 'European Consensus on Humanitarian Aid'<sup>86</sup>, which is not part of EU primary law, mentions all four principles – neutrality, humanity, independence and impartiality. The omission of independence in Article 214 (2) TFEU has led to sustained criticism both in the academic and the NGO debates, arguing that the associated risk of a "politicisation of aid", linking aid to foreign policy objectives, might lead to a "malign coherence, stemming from the dominance of a particular policy objective within a particular institutional setting over a weaker institutional setting with different objectives".<sup>87</sup>

In the literature, the relationship between EEAS and other DGs in the field of humanitarian aid policy is usually described as strenuous. In particular, crisis management in the EEAS would still be framed "in a CSDP-centred mentality, which identifies the CSDP with crisis management and advocates the need to combine it with other EU tools, i.e. diplomatic, economic, development and humanitarian".<sup>88</sup> A narrow understanding of crisis management by civil and military means would often compete with a broader "whole of the EU-approach" towards a particular country or region combining humanitarian aid with the "3D's of diplomacy, development and defence/security".<sup>89</sup>

Other researchers<sup>90</sup> have highlighted the potential tensions between a comprehensive approach on humanitarian aid that is linking short term emergency support with long term development and disaster preparedness planning with the principles of the European Consensus on Humanitarian Aid, in particular with the principle of independence. According to them, the door towards an increased "politicisation of humanitarian aid"<sup>91</sup> was further opened in the Joint Declaration of the European

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<sup>84</sup> Council of the European Union (2008).

<sup>85</sup> Broberg, M. (2014). EU Humanitarian Aid after the Lisbon Treaty. *Journal of Contingencies and Crisis Management*, 22:3, 166 – 173, p.168; Elsuwege, P. & Orbie, J. (2014), p.28.

<sup>86</sup> Council of the European Union (2008).

<sup>87</sup> Elsuwege, P. & Orbie, J. (2014), p.32.

<sup>88</sup> Pirozzi, N. (2013a). *The European Union's Crisis Management After Lisbon: Addressing New Security Challenges in the 21st Century*. IAI Working Papers 13/26, Rome: Istituto Affari Internazionali, p.8.

<sup>89</sup> Pirozzi, N. (2013a), p.8.

<sup>90</sup> Dany, C. (2015); Irrera, D. (2014).

<sup>91</sup> Dany, C. (2015).



Commission and the High Representative of the European Union for Foreign Affairs and Security Policy on 'The EU's comprehensive approach to external conflicts and crisis'<sup>92</sup>, which forged a strong link between security and humanitarian agendas. This criticism was reiterated in the stakeholder conference on the future of humanitarian aid of the EU in 2013, bringing together some 80 representatives of humanitarian organisations, academia and consultancies, which, according to a leading DG ECHO staff member, led to considerable problems in jointly drafting the respective communication by DG ECHO and EEAS: "It's not harmony, it's a battleground for how we actually make sure that we keep this independence, while at the same time ensuring the security".<sup>93</sup>

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<sup>92</sup> European Commission (2013b). *The EU's comprehensive approach to external conflict and crises*. Joint Communication to the European Parliament and the Council, JOIN(2013) 30 final.

<sup>93</sup> Dany, C. (2015), p. 431.

## 6. Consular Protection of Unrepresented Union Citizens in Third Countries

### 6.1. Historical Development

Whereas humanitarian aid is a policy field based on the premise of impartiality and independence, Union Citizens in a country of crisis enjoy considerable privileges compared to third country nationals due to their right to consular protection by another EU member state in third countries where there is no local representation of their home Member State. This right has been established with the creation of Union Citizenship (Art. 8 (c) TEC in 1992). The scope of protection, which might also include evacuation and other support measures, is based on equal treatment with the citizens of the Member State that the diplomatic authority represents.<sup>94</sup>

Several large scale disasters also affecting Union Citizens abroad, e.g. the Balkan wars, the tsunami in South-East Asia, the hurricane Katrina in the US, the Lebanon crisis in 2006 and the crisis in Libya in 2011, were triggers for a renewed drive for improved consular protection of EU citizens abroad in the early 2000s. Reacting on these crises, the Consular Cooperation Working Party (COCON), which is associated to the General Affairs and External Relations Council, became active and drafted a Code of Practice and several non-binding regulations for the Council.<sup>95</sup> One of the suggestions included the concept of 'lead states during crises' aiming at giving one Member State with a representation in the country of crisis the lead in intra-consular cooperation with representatives of other Member States and privileged access to the European Joint Situation Centre.<sup>96</sup> In addition to providing information to Union Citizens, the lead state should also organise evacuation where necessary.<sup>97</sup> At this time, the establishment of a more regular cooperation structure including "the option of formalising the framework through a legal decision" was also discussed within the Council.<sup>98</sup> This option has however not been realised.

After first ideas on the development of European Consulates becoming part of a European Civil Protection Force had been voiced in a study by the European Commission and the Council in 2006<sup>99</sup>, the Commission drafted a Green Paper suggesting i.e. to improve protection of Union Citizens in third countries, to extend consular protection to third country family members of Union Citizens, and to improve information of Union Citizens on the issue.<sup>100</sup> In the following debate, it became clear, that the Member States resisted harmonisation and defended consular and diplomatic protection as a core element of national sovereignty.<sup>101</sup> Reacting on the resistance of the Member States, the Commission framed consular protection abroad as a core element of 'Union Citizenship' with a tangible means for citizens of a Member States of the EU, and a means to strengthen the visibility of the EU as an

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<sup>94</sup> Comparable arrangements exist in the ASEAN Member States.

<sup>95</sup> Heijmans, M. & Melissen, J. (2007). *Consular Affairs and Change in Diplomacy*. Paper presented at the 48th Annual Convention of the International Studies Association, Chicago, February 28–March 4, 2007, p.14; Sundholm, M. (2009). *Making the Case for Europe? An Explanatory Study of EU Consular Crisis Management Cooperation as a Means of EU Public Diplomacy*. Paper prepared for the EUSA Eleventh Biennial International Conference Panel, Los Angeles, 25.4.2009. Retrieved from: <http://aei.pitt.edu/33143/>, p.22.

<sup>96</sup> Porzio, G. (2008). Consular Assistance and Protection. An EU Perspective. *The Hague Journal of Diplomacy*, 3/2008, 93 – 97, p.96.

<sup>97</sup> Sundholm, M. (2009), p.22.

<sup>98</sup> Sundholm, M. (2009), p., 24.

<sup>99</sup> Barnier, M. (2006). *For a European civil protection force: Europe Aid*. Brussels: European Commission.

<sup>100</sup> Commission of the European Communities (2006). *Diplomatic and consular protection of Union citizens in third countries*. Green Paper, COM (2006) 712 final.

<sup>101</sup> Citizens Consular Assistance Regulations in Europe (CARE) (2010). *Consular and Diplomatic Protection - Legal Framework in the EU Member States*. Ittig-Cnr, University of Vienna, IISSA, p.27; Moraru, M.B. (2012). *Protection of EU citizens abroad: A legal assessment of the EU citizen's right to consular and diplomatic protection*. Perspectives on Federalism, Vol 3/2, 2012, 68 – 105; Wouters, J., Duquet, S. & Meuwissen, K. (2013). *The European Union and Consular Law*. Working Paper 107, Leuven Centre for Global Governance Studies. Leuven: Institute for International Law, p.6.

international actor.<sup>102</sup> Consular protection is also mentioned into the EU Charter of Fundamental Rights in 2000<sup>103</sup> as part of Chapter V 'Citizens' rights', where Article 46 of the Charter reiterated the formulation of Article 8 TEC 1992.

In 2007, the Lisbon Treaty reorganised the legal and institutional framework for the protection of unrepresented Union Citizens in third countries. Aiming at strengthening the foreign policy of the Union, the Treaty established the previously mentioned High Representative for Foreign and Security Policy and transformed the Union Delegations into diplomatic missions of the European Union as a whole (Art. 221 TFEU), which were tasked to "contribute to the implementation of the rights of the citizens of the Union to protection in the territory of third countries" (Art 35.3 TEU). This institutional change was accompanied by the establishment of a new legal base, which strengthened the consular and diplomatic protection of Union Citizens abroad.

## 6.2. The Legal Base after Lisbon

The right of unrepresented Union Citizens to the consular and diplomatic protection of other Member States is guaranteed by Article 20 (2) c and Article 23 TFEU. Article 35 TEU regulates the cooperation of the EU delegations with the diplomatic missions of the Member States in consular and diplomatic protection of Union Citizens, but does not clearly define the nature and scope of protection.

Whereas Article 20 (2) c TFEU clearly positions consular and diplomatic protection by another Member State in case of a lack of diplomatic or consular representation as a right of a Union Citizen, Article 35 TEU defines the duty of Member States' diplomatic missions to protect unrepresented Union Citizens as a duty established by European Union legislation. With EU competence in legislation, this cannot be overridden by national legislation. EU institutions now have the explicit competence to adopt common standards for the protection of unrepresented Union Citizens abroad<sup>104</sup>, and the ECJ has full jurisdiction.<sup>105</sup> Furthermore, Article 6 TEU explicitly recognises the Charter of Fundamental Rights as a legal act with "the same legal value as the treaties".

The EU Citizenship Report 2010 highlighted the lack of effective consular protection for EU citizens under distress in third countries and pinpointed the need to "increase the effectiveness of the right of EU citizens to be assisted in third countries, including in times of crisis".<sup>106</sup> The report thus announced legislative measures for 2011.<sup>107</sup>

In April 2015, the Council adopted Directive 2015/637 on the consular protection of unrepresented Union Citizens<sup>108</sup>, which contains the issue and has to be transposed into the national legal order of the EU Member States by 1 May 2018.

According to the Directive, "Member States' embassies or consulates shall provide consular protection to unrepresented citizens on the same conditions as to their own nationals" (Art.2.1), which might also include relief and repatriation in case of an emergency" (Art. 9).

Member States' representations are obliged to closely cooperate with each other and with the European Union, in particular the Union delegations, in order to ensure protection of unrepresented Union Citizens. To foster cooperation, regular local coordination meetings between the Union delegations and the representations of the Member States have to be established. In case of a crisis, Member States and Union delegations should fully cooperate and "where possible, inform each other of available evacuation capacities in a timely manner" (Art 13.2). The lead state or the Member State coordinating assistance for unrepresented citizens "may seek, if appropriate, support from instruments

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<sup>102</sup> Sundholm, M. (2009), p.28.

<sup>103</sup> Charter of Fundamental Rights of the European Union (200/C 364/01).

<sup>104</sup> Wouters, J., Duquet, S. & Meuwissen, K. (2013), p.6.

<sup>105</sup> Citizens Consular Assistance Regulations in Europe (CARE) (2010), p.32.

<sup>106</sup> European Commission (2010). *EU Citizenship Report 2010. Dismantling the obstacles to EU citizen's rights*. COM(2010) 603 final, p.24

<sup>107</sup> European Commission (2010).

<sup>108</sup> Council of the European Union (2015). *Council Directive (EU) 2015/637 of 20 April 2015 on the coordination and cooperation measures to facilitate consular protection for unrepresented citizens of the Union in third countries and repealing Decision 95/553/EC*. (L 106/1).

such as the crisis management structures of the EEAS and the Union Civil Protection Mechanism” (Art. 13.4.).

According to the Directive, “Member States' embassies or consulates shall provide consular protection to unrepresented Union Citizens on the same conditions as to their own nationals” (Art.2.1). This general right to equal treatment is limited with regard to third country family members who are accompanying the unrepresented Union Citizen. They are only granted consular protection in accordance with the national law or the practice of the Member State that assists the unrepresented Union Citizen (Art.5). Article 13 regulates crisis preparedness and cooperation demanding that “local contingency planning should take unrepresented citizens into account” in order to assure full assistance of unrepresented Union Citizens in a crisis (Art. 13.1). In a case of a crisis, Member States and Union delegations should fully cooperate and “where possible, inform each other of available evacuation capacities in a timely manner” (Art 13.2).

With this Directive in place, the protection of unrepresented Union Citizens in third countries has been regulated in more detail by defining duties of the Member States to also incorporate the protection of citizens of other EU Member States. According to the European Commission, the Directive “takes into account and builds on the current practice of Member States, but it replaces and ‘lisbonises’ the intergovernmental framework, which had previously been prevailing. As mentioned above, the ECJ now has full jurisdiction and the Commission can act as a guardian of the Treaty. Member States will have to exercise their competences in the light of the objectives of Article 23 and of the Directive. According to the European Commission, this directive moreover “constitutes a first step and contains a review clause which will enable the Commission to make new proposals should it be necessary to ensure effective protection of unrepresented EU citizens”.<sup>109</sup>

In the scientific literature, these new legal developments are discussed from different viewpoints. Whereas some authors highlight the incremental Europeanisation of consular protections, others are more critical.

According to Fernández-Pasarín, despite the constant oscillation between Member States’ insistence on sovereignty in foreign relations, the development of a new scheme of “collective governance in the foreign domain” can be discerned leading to a changed paradigm – supranational diplomacy – in the field of consular protection policies.<sup>110</sup> A more critical perspective is taken by Rasmussen, who describes the Directive as “a(nother) lost opportunity” with regard to a further development of Union Citizenship, as the provisions would contain a large number of derogations from equal treatment of all Union Citizens, and consular assistance would not provide a supranational dimension to citizens’ protection outside the EU.<sup>111</sup> On the contrary, Maas suggests to understand the situation as the development of a new model of “shared governance” characterised by a horizontal rather than vertical transfer of competence “from one member state to the other rather than to EU authorities”, allowing the Member States to retain their autonomy.<sup>112</sup>

While there is no doubt that, due to the growing number of travelling EU citizens on the one hand and the tendency of Member States to reduce consular presence on the other, in many countries there is the need for more coordination in this field, it is too early to evaluate the concrete effects of the new legal setting on the protection of unrepresented Union Citizens in countries of crises abroad. Nevertheless, the Directive gives room for further action in the context of the MICIC Initiative, which is described in the chapter on recommendations.

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<sup>109</sup> Verbal comment provided in response to an earlier draft of the paper by DG DEVCO, DG ECHO, DG JUST, and EEAS on 13 September 2017

<sup>110</sup> Fernández-Pasarín, A. M. (2015). Towards an EU Consular Policy? In: Spence, D.; J. Bátora (eds.) (2015). *The European External Action Service. European Diplomacy Post-Westphalia*. Houndsmill: Palgrave-Macmillan, 356-373, p. 369.

<sup>111</sup> Rasmussen, B. S. (2016). Constructing the European Demos through External Action? The Case of Consular Assistance to EU Citizens. In: Pérez de las Heras, B. (ed.). *Democratic Legitimacy in the European Union and Global Governance. Building a European Demos*. Cham: Macmillan & Springer, 259-284, pp. 271.

<sup>112</sup> Maas, W. (2016). European Governance of Citizenship and Nationality. *Journal of Contemporary European Research*. 12/1, 532-551.

## 7. European Humanitarian Aid and Crisis Interventions and the Link to Migrants in Crisis in Six Case Studies

### 7.1. Introduction

Based on results gained through research conducted as part of the MICIC Initiative, this chapter provides an empirical insight into the role of EU bodies in the six MICIC case studies (Lebanon, Libya, Thailand, Côte d'Ivoire, Central African Republic, South Africa). The chapter is based on results provided by local research partners in the 11 research countries, including interviews with EU delegations; four interviews conducted as background research for this report with Brussels-based staff of DG DEVCO, DG ECHO, DG HOME, EEAS, the Service for Foreign Policy Instruments; and desk research.<sup>113</sup> All case studies employed similar methodological approaches, including: desk research, semi-structured interviews, survey results and focus groups, and participant observation in the case of Lebanon. Research teams (International Migration Institute (IMI), International Centre for Migration Policy Development (ICMPD) and local research partners) collected information from over 650 interviewees, through semi-structured interviews and focus group discussions over the course of 2016 (February-September). This was based on uniform fieldwork tools developed for data collection and analysis across all fieldwork countries. Six specific stakeholder groups were targeted for this fieldwork: migrants, family members of migrants (where relevant and feasible), government authorities (from host, transit and origin countries), experts and private sector actors (including employers, community leaders and academics), civil society organisations (both international and local), and intergovernmental organisations (such as the International Organization for Migration (IOM), UNHCR and European Union delegations).

The following discussion should not be seen as an exhaustive depiction, but rather as an illustration of EU efforts targeting the needs of migrants in crisis situations. It was drafted in parallel with MICIC case studies and is thus based on preliminary findings, not the final case studies, which may provide more comprehensive information. The scope of the research is limited by the amount of material made publicly available by EU bodies, for instance through Annual Reports, which are often kept quite general. Furthermore, because of staff rotations, interviews conducted with EU delegations for the MICIC case studies were often held with staff who were not present in the country at the time of crisis and could thus not provide detailed information about measures taken at the time. Throughout the subsequent sections, a focus is placed on the EU's crisis response in six different case studies, analysing the extent to which the needs of migrants in crisis are taken into consideration and acted upon by the European Commission, its relevant Directorate Generals and the local EU delegations.

### 7.2. Côte d'Ivoire

Having for decades been a popular destination country for migrants from ECOWAS and other countries due to its stability, violent conflicts that especially targeted non-citizens (and those perceived as non-citizens) broke out in Côte d'Ivoire in the early 2000s, spiking particularly in 2002/2003 and 2011/2012. Our research focused especially on the latter years.

In the course of the 2011 crisis, the European Commission responded by issuing an initial EUR 60 million multi-sector emergency response. By early 2016, the overall humanitarian aid delivered to manage the crisis in Côte d'Ivoire was worth EUR 119 million.<sup>114</sup> As a result of this process, DG ECHO notes that the majority of IDPs and Ivoirians who took refuge in one of the neighbouring countries have returned to Côte d'Ivoire.<sup>115</sup> The challenges associated with the large number of people fleeing the conflict in Côte d'Ivoire appear to have been realised early on by the Commission. In its 2012 annual report, DG ECHO raised concerns over the effect of the crisis on neighbouring countries

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<sup>113</sup> Interviews are coded 'EU-A' or 'LB-I' to indicate location of the interview (European Union, Lebanon, etc.) and stakeholder category (agency, institution, migrant, etc.).

<sup>114</sup> DG ECHO (2016c). *Ivory Coast- ECHO Factsheet*. Retrieved from: [http://ec.europa.eu/echo/files/aid/countries/factsheets/cote\\_ivoire\\_en.pdf](http://ec.europa.eu/echo/files/aid/countries/factsheets/cote_ivoire_en.pdf).

<sup>115</sup> For more information, see: [http://ec.europa.eu/echo/where/sub-saharan-africa/ivory-coast\\_en](http://ec.europa.eu/echo/where/sub-saharan-africa/ivory-coast_en).

“particularly [on] Liberia and Ghana, due to the continued presence of refugees”.<sup>116</sup> Since Liberia was one of the neighbouring countries most heavily affected by the crisis in Côte d’Ivoire, the EU delegation in Liberia was involved in a programme to resettle and reintegrate Liberians returning from Côte d’Ivoire.<sup>117</sup> The delegation, in cooperation with UN agencies, further provided logistics, such as a fleet of trucks, the reconstruction of bridges and roads along the border and facilitated the establishment of information centres for returning Liberians.<sup>118</sup> In line with the efforts of the EU delegation, DG ECHO assisted in the return of Liberians and supported the delivery of shelter and care programmes for Ivorian refugees.<sup>119</sup> Taking these initiatives into consideration, it seems that the EU’s response to the crisis in Côte d’Ivoire was to protect and support refugees and IDPs and therefore complies with existing international protection frameworks. Yet, the case of Côte d’Ivoire highlights a need to move beyond these existing frameworks by also taking into consideration the vulnerabilities of migrants in crisis, who are equally dependent on reintegration schemes and compensation for their loss of remittances. Although the initiation of a ‘Partnership for Transition’, a framework aiming to facilitate the transition between humanitarian and development aid, further shows that the Commission has an enduring commitment in engaging in Côte d’Ivoire, substantive measures addressing the needs of migrants have not been incorporated into the longer-term relationship between both parties.<sup>120</sup>

### 7.3. Libya

Due to Libya’s geographical proximity to the EU, migration to and from Libya has traditionally been an important topic for the EU. In 2011, Libya experienced widespread political unrest, which led to the ousting of Muammar Gaddafi. While the country was announced to be ‘liberated’ after his fall, which is often seen as the end point of the immediate conflict, violent conflict continues in the country to this day. Millions of migrants working in the country are in a highly precarious situation, with some nationalities even becoming targets of violence due to their suspected support of respective militia groups.<sup>121</sup>

Following the outbreak of the Libyan crisis, the European Commission, through DG ECHO, initiated a number of crisis response measures, providing immediate funding for humanitarian assistance worth EUR 80.5 million.<sup>122</sup> With regard to the impact of the Libyan crisis on the situation of migrants, DG ECHO notes that the conflict not only caused severe conditions for refugees at the Tunisian and Egyptian borders, but also required “EU assistance for the humanitarian response and the repatriation of people who had been working in Libya fleeing the conflict”.<sup>123</sup> Accordingly, DG ECHO facilitated the evacuation of 24,000 third country nationals via IOM, funded assistance to Tunisian and Egyptian people escaping the crisis, and supported their repatriation through IOM, UNHCR, IFRC as well as through UNOCHA. In an interview with DG ECHO, it was however noted that evacuations of third country nationals are not actually within the mandate of DG ECHO. In the case of Libya, there were many people affected and an ad hoc solution had to be found, but it was considered an exception and a particular solution. Furthermore, DG ECHO supported the protection of third country nationals from sub-Saharan Africa in Libya.<sup>124</sup> As noted by one interviewee who was stationed with the EU delegation to Libya at the time, there were some challenges with regard to the implementation of these immediate

<sup>116</sup> DG ECHO (2013). *Annual Report on the European Union’s Humanitarian Aid and Civil Protection Policies and their Implementation in 2012*. Report from the Commission to the European Parliament and to the Council, COM(2013) 658 final, p.7.

<sup>117</sup> LIB-I-03.

<sup>118</sup> LIB-I-03.

<sup>119</sup> DG ECHO (2012a). *Annual Report on the European Union’s Humanitarian Aid and Civil Protection Policies and their Implementation in 2011*. Report from the Commission to the European Parliament and to the Council, SWD(2012) 254 final.

<sup>120</sup> For further information on the Partnership for Transition, see:

[http://ec.europa.eu/echo/node/2105\\_en](http://ec.europa.eu/echo/node/2105_en).

<sup>121</sup> See: Zampagni, F. et al. (2017). *Libya Case Study: An Unending Crisis – Responses of Migrants, States and Organisations to the 2011 Libya Crisis*. Migrants in Countries in Crisis (MICIC) Initiative. Vienna: ICMPD.

<sup>122</sup> DG ECHO (2012b). *Humanitarian Aid and Civil Protection: Libyan Crisis*. Retrieved from: [https://ec.europa.eu/echo/files/aid/countries/libya\\_factsheet.pdf](https://ec.europa.eu/echo/files/aid/countries/libya_factsheet.pdf).

<sup>123</sup> DG ECHO (2013), p.6.

<sup>124</sup> DG ECHO (2012b).

crisis response measures. First of all, the Libyan government still existed, although involved in a deep crisis, and EU stakeholders had no mandate to operate in Libya as they saw fit. Thus, international actors had to wait for people fleeing the crisis, including migrants, to become active. Secondly, the EU delegation had been evacuated, and thus had no immediate operation on the ground. Thirdly, some implementing agencies initially based eligibility to support on nationality of migrants, and thus created barriers for some migrants to accessing humanitarian aid in a very tense situation.<sup>125</sup> In interviews with Commission stakeholders, it was noted that this experience has since been integrated into crisis response mechanisms through an enhanced focus on a needs-based policy, in order to reduce barriers to accessing emergency services.<sup>126</sup>

Another initiative came from the Directorate General for International Cooperation and Development (DG DEVCO), which issued a Special Measure called 'Regional Assisted Voluntary Return Programme for Stranded Migrants ex-Libya' aiming at supporting efforts by the Libyan government to stem the migratory challenges triggered by the crisis and to assist stranded migrants who sought to escape Libya.<sup>127</sup>

Due to the regional dimension of the Libyan crisis, the Commission expanded its efforts to respond to the broader crisis by initiating projects in Libya's neighbouring countries. In Egypt and Tunisia, the EU Neighbourhood and Partnership Instrument (ENPI) funded a EUR 9 million regional project called 'Stabilising at-risk communities and enhancing migration management to enable smooth transitions in Egypt, Tunisia and Libya' (START).<sup>128</sup> Implemented by IOM, the four and a half year project was launched in 2012 and aimed at promoting the rights of returned migrants from Libya and their access to healthcare services.<sup>129</sup> In Libya, the project helped establish "a nationwide network of NGOs to meet the basic needs of over 4,000 displaced families and over 10,000 stranded migrants".<sup>130</sup> The EU delegation to Tunisia further dedicated grants to the Accompaniment and Defense of Migrants (ADEM) project in support of promoting migrants' and refugees' rights, which was implemented by the *Maison du Droit et de la Migration* and *France Terre d'Asile*.<sup>131</sup> In Ghana, migrants were supported after their immediate return through projects funded by EU bodies and implemented by IOM<sup>132</sup>, e.g. through monitoring and reintegration programmes, which included training and monetary support. EUR 10 million of the ECHO emergency funds for Libya were furthermore allocated for the reintegration of Chadian migrants returning to Chad.<sup>133</sup>

A different project, funded under the Instrument for Stability (IFS) and the European Development Fund (EDF), was foreseen to mitigate the negative impact of armed return migrants from Libya into Niger in order to prevent a situation in which the influx of weapons and fighters could destabilise the country.<sup>134</sup> The EU further launched its so-called 'Emergency Trust Fund for Africa' in November 2015. Worth EUR 2.5 billion, the Trust Fund prioritises tackling the root causes of irregular migration by fostering economic growth, strengthening local resilience, stable governance as well as migration management with the objective to enable migrants to remain in, or reintegrate into their local

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<sup>125</sup> EU-A-03.

<sup>126</sup> EU-A-02.

<sup>127</sup> DG DEVCO (2012). *Annual Report on the European Union's development and external assistance policies and their implementation in 2011*. Retrieved from: [https://ec.europa.eu/europeaid/sites/devco/files/annual-report-2012-eu-development-external-assistance-policies-implementation-in-2011\\_en.pdf](https://ec.europa.eu/europeaid/sites/devco/files/annual-report-2012-eu-development-external-assistance-policies-implementation-in-2011_en.pdf), p. 130.

<sup>128</sup> For more information on Stabilising at-risk communities and enhancing migration management to enable smooth transitions in Egypt, Tunisia, and Libya (START), see: [https://ec.europa.eu/europeaid/projects/stabilising-risk-communities-and-enhancing-migration-management-enable-smooth-transitions\\_en](https://ec.europa.eu/europeaid/projects/stabilising-risk-communities-and-enhancing-migration-management-enable-smooth-transitions_en).

<sup>129</sup> TU-I-01.

<sup>130</sup> International Organization for Migration (IOM) (8 February 2016). *IOM Marks End of EU-Funded North Africa Stabilization Programme*. Press Release. Retrieved from: <https://www.iom.int/news/iom-marks-end-eu-funded-north-african-stabilization-programme>.

<sup>131</sup> TU-I-01.

<sup>132</sup> GH-I-01.

<sup>133</sup> DG ECHO (2012b).

<sup>134</sup> NE-I-01; From March 2014 the Instrument for Stability (IFS) was succeeded by the Instrument contributing to Stability and Peace's (IcSP).

communities.<sup>135</sup> Whereas the Commission has thus responded by facilitating various projects to immediately protect migrants, the aspect of sustainable and longer-term (re)integration of migrants in the aftermath of a crisis has gained more traction in the context of the recent EU Trust Fund for Africa, highlighting a general gap in the long-term support for returned migrants, which has emerged strongly in several case studies of the MICIC research.

## 7.4. Lebanon

In Lebanon, the 2006 war had a severe impact on migrants residing in the country. Yet, case study research, which focused specifically on the situation on migrant domestic workers, has shown that despite the hazards caused by the violent conflict between Hezbollah and Israel, migrants overwhelmingly point to the negative restraints of an ‘everyday crisis’ as their main obstacle to the full appreciation of their rights.<sup>136</sup> This observation consequently demands a differentiated assessment of how the EU reacted to both the 2006 war and the ‘everyday crises’.

In response to the acute crisis in 2006, the European Commission provided emergency aid worth EUR 20 million with the objective to address the most pressing humanitarian needs, such as shelter, health, water, psychological support and protection.<sup>137</sup> Further, the Commission increased its regular contribution to EUR 107 million in order to facilitate the immediate reconstruction and to strengthen political, social and economic reform processes in the country.<sup>138</sup> Lastly, a EUR 30 million humanitarian aid package was passed and implemented by DG ECHO in coordination with UN agencies, NGOs as well as with the Red Cross to serve “the populations affected by the conflict”.<sup>139</sup>

Although these initiatives underline the EU’s general humanitarian commitment, more specific measures considering the needs of migrants in crisis are largely absent in the Commission’s emergency response to the crisis in Lebanon. The structural dependency and vulnerability of migrants resulting from the sponsorship system in Lebanon (*kafala*) is a crucial aspect that needs to be taken into account in the process of distributing humanitarian aid. However, this circumstance is rarely featured in the Commission’s response to the 2006 crisis. A notable exception is the EU’s contribution to facilitate the evacuation of some 40,000 EU nationals and another 10,000 third country nationals.<sup>140</sup> In a similar vein, the Commission contributed to funding the evacuation of irregular female domestic workers (mostly from the Philippines, Sri Lanka and Ethiopia) to their country of origin, which was carried out by Caritas and the International Organisation for Migration.<sup>141</sup> The initiatives responding to the 2006 war have taken place under the European Neighbourhood and Partnership Instrument, further corresponding with the ‘EU Action Plan for Lebanon’ and the ‘EU-Lebanon Association Agreement’, with the latter two entering into force just before hostilities started. Against the backdrop of the European Neighbourhood Policy, the Commission’s strategic interest setting the objectives of its crisis response thus lay with economic interests and a quest for stability, which in turn explains the limited attention paid towards the situation of migrants in crisis.

Despite the lack of an immediate crisis response in 2006 that actively paid attention to the needs of migrants, the Commission has recently been more engaged in responding to the ‘everyday crises’ of migrants in Lebanon. In 2012 the EU funded a 36-months project to support the protection of human rights and to prevent the exploitation of migrant workers in the Middle East and North Africa. Implemented by IOM, the PAVE Project aimed at contributing “to the protection of migrant workers from exploitation, exclusion, discrimination and xenophobic treatment” and was hence well suited to respond to the needs of migrants, especially to those of migrant domestic workers.<sup>142</sup> The project was

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<sup>135</sup> For more information on the EU Emergency Trust Fund for Africa, see:

[http://ec.europa.eu/europeaid/regions/africa/eu-emergency-trust-fund-africa\\_en](http://ec.europa.eu/europeaid/regions/africa/eu-emergency-trust-fund-africa_en).

<sup>136</sup> See: Mansour-Ille, D. & Hendow, M. (2017). *Lebanon Case Study: Migrant Domestic Workers and the 2006 Crisis*. Migrants in Countries in Crisis (MICIC) Initiative. Vienna: ICMPD.

<sup>137</sup> European Neighbourhood and Partnership Instrument (2007). *Lebanese republic: Country Strategy Paper 2007-2013 and national Indicative Programme 2007-2013*, p.13.

<sup>138</sup> European Neighbourhood and Partnership Instrument (2007), p.13.

<sup>139</sup> European Neighbourhood and Partnership Instrument (2007), p.13.

<sup>140</sup> European Neighbourhood and Partnership Instrument (2007), p.13.

<sup>141</sup> LB-I-01.

<sup>142</sup> International Organization for Migration (IOM) (2015). *The Other Migrant Crisis. Protecting Migrant Workers against Exploitation in the Middle East and North Africa*. Geneva: IOM, p.2.



funded through the ENPI, which was at the time managed by DG DEVCO but now operates under the Directorate General for Neighbourhood and Enlargement Negotiations (DG NEAR), as DG ECHO's work in Lebanon, since 2011, focusses on the situation of Syrian refugees. Due to the success of the project, the EU has further supported, in cooperation with Caritas, a number of smaller activities with the objective to raise awareness on migrants' rights, establishing shelters and liaising with authorities.<sup>143</sup> Since the beginning of the Syrian refugee crisis in 2011, the Commission's humanitarian response implemented by DG ECHO has been focusing on the situation of Syrian refugees in Lebanon, similar to other international donors in the country. The recently initiated Migration Compacts therefore aim at adjusting the ENP, managed by DG NEAR, for "facing the impact of the Syria crisis" in Lebanon, while not mentioning the needs of other migrants (i.e. non-citizens) in crisis.<sup>144</sup>

## 7.5. Central African Republic

In this case study, a focus has been placed on the violent conflict in 2013 and 2014 and the situation of migrants from the neighbouring countries of Chad and Cameroon. Some of these migrants had been living in the Central African Republic (CAR) for decades and some had even naturalised to become Central African Republic citizens. In a conflict based on a mix of religious and anti-foreigner sentiments, they had to flee to countries where some still had social networks, while others had barely any connections.<sup>145</sup>

The conflict has been a major issue for the European Commission, and especially for DG ECHO. Since 2013, the European Commission spent over EUR 127.5 million on humanitarian assistance. This included EUR 44 million on CAR refugees in neighbouring countries, of which over EUR 25 million were allocated to Cameroon and over EUR 15.5 million to Chad.<sup>146</sup> Although the Commission initiated considerable efforts to address the situation of CAR refugees in both countries, it is clear that available support for reintegration is nevertheless limited and international attention has shifted to the crisis in the Lake Chad region. Due to the sectarian dimension of the crisis in CAR, migrants from Cameroon and Chad were repeatedly targeted and harmed due to conflicts related to the transhumance or to their alleged affiliation with one side of the warring factions. Although not particularly addressing the situation of migrants in crisis, DG DEVCO tackled this broader problem through the Bekou Fund in Cameroon, which, among other objectives like mediation and intercommunity dialogue, envisioned "to lower the tensions in the short and medium term between local and refugee populations".<sup>147</sup> In Chad, a similar project worth EUR 7 million was launched under the Instrument contributing to Stability and Peace (IcSP) and implemented by the United Nations Children's Fund (UNICEF), the World Food Programme (WFP), UNHCR, IOM and the Food and Agriculture Organization (FAO) in order to ensure the protection and promotion of peaceful coexistence within communities. More comprehensive measures with regard to migrants in countries of crisis were not taken. With regard to the longer term objective of the Commission's crisis response, it seems as though the EU's major objective is to mitigate general instability in CAR and to prevent the conflict from re-escalating, than developing specific measures for migrants as target groups.

## 7.6. South Africa

In 2008, South Africa saw nationwide attacks on migrants and their businesses, especially those originating from Zimbabwe.<sup>148</sup> In light of the xenophobic violence and its effect on migrants living and working in South Africa, the EU delegation in the country has focussed its work predominantly on

<sup>143</sup> LB-I-01.

<sup>144</sup> European Commission (2016d). *First Progress Report on the Partnership Framework with third countries under the European Agenda on Migration*. Communication, COM(2016) 700 final, p.11.

<sup>145</sup> See: Pailey, R.N., Bomono, H.Y. & Hoinathy, R. (2017). *Central African Republic Case Study: Central African Republic at a Crossroads- Socio-economic Development Implications of Crisis-induced returns to Cameroon and Chad*. Migrants in Countries in Crisis (MICIC) Initiative: ICMPD: Vienna.

<sup>146</sup> Direct correspondence with DG ECHO.

<sup>147</sup> DG DEVCO (n.d.). *Programme for short and medium term response to the influx of refugees from the Central African Republic in Cameroon*. Retrieved from: [https://ec.europa.eu/europeaid/trust-fund-projects/bekou-programme-central-african-refugees-cameroon\\_en](https://ec.europa.eu/europeaid/trust-fund-projects/bekou-programme-central-african-refugees-cameroon_en).

<sup>148</sup> See: Crush, J. et al. (2017). *South Africa Case Study: The Double Crisis – Mass Migration From Zimbabwe and Xenophobic Violence in South Africa*. Migrants in Countries in Crisis (MICIC) Initiative. ICMPD: Vienna.

cooperation with local human rights groups and civil society organisations (CSOs). The main focus of the delegation's work has therefore been placed on advocacy for these groups and their concerns. Further, the delegation partners with the Department of Justice in order to facilitate a public consultation on the effects of ongoing xenophobic attacks in South Africa.<sup>149</sup> The EU further engages in the development of the 'National Action Plan on Racism and Xenophobia'. In cases where refugees have requested their repatriation, UNHCR has been the main actor carrying out such tasks. While the Commission is in this way involved in tackling the challenges posed by xenophobia, there have been no specific initiatives tailored towards the protection and needs of migrants suffering from such attacks.

## 7.7. Thailand

In 2011, Thailand experienced the largest, most prolonged flooding in decades, affecting 66 of 77 provinces, particularly those low-land industrial areas where large numbers of migrants from surrounding countries were working and living<sup>150</sup>. DG ECHO was the main actor in the European Commission's crisis response in Thailand. Two months after the floods occurred, DG ECHO's regional office responded to the ongoing severity of the situation and mobilised emergency funding.<sup>151</sup>

While the hands of other international organisations, including the UN, were tied because the Thai government had not issued an official international request for assistance, DG ECHO was still able to act through its emergency funding. It thus provided EUR 1.5 million to the International Federation of the Red Cross and the Thai Red Cross to support people affected by the flood.<sup>152</sup> Since the Thai government's humanitarian response was not specifically tailored towards the migrant community, problems occurred in the distribution of relief supplies and other services due to the fact that migrants lacked the documents and home addresses required to qualify for assistance.

DG ECHO responded to the needs by funding another EUR 0.5 million project implemented by Save the Children, particularly targeting migrants' households with children. Yet, only a small number of migrants benefited from this project, since Save the Children experienced difficulties in reaching out to migrants, who often did not want to be identified due to their irregular status.<sup>153</sup> Both projects were supported by the emergency humanitarian funding with which DG ECHO responded to the flooding throughout South East Asia. They were managed by DG ECHO for a period of six months until the emergency projects ended and development donors took over.<sup>154</sup> The initial problems in the measures implemented by Save the Children indicate that there are still lessons to be learned in responding to migrants' needs in a manner that takes into account the specific situation of migrants caught in a crisis situation. As part of its project evaluation DG ECHO issued a recommendation for local NGOs to improve their communication with migrants in order to guarantee an increased scale and effectiveness of crisis response measures.<sup>155</sup> This indicates the start of a process of policy learning and points to the need to include migrants in the process of planning and coordinating crisis response measures in the future.

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<sup>149</sup> Interview with EU Delegation in South Africa.

<sup>150</sup> See: Bravi, A., Schaur, K. et al. (2017). *Thailand Case Study: Migration and Natural Disaster – The Impact on Migrants of the 2011 Floods in Thailand*. Migrants in Countries in Crisis (MICIC) Initiative. ICMPD: Vienna.

<sup>151</sup> TH-I-10.

<sup>152</sup> TH-I-10.

<sup>153</sup> TH-I-10.

<sup>154</sup> DG ECHO (2012a); TH-I-10.

<sup>155</sup> TH-I-10.

## 8. Conclusions: The Policy Field of Humanitarian Aid and Civil Protection: Stakeholders, Paradigms and Challenges

Crisis related policies at EU level can best be conceived as a dedicated policy field comprising a set of actors from different institutional areas: a) stakeholders from the field of humanitarian aid, b) stakeholders from the field of civil protection, including civil protection of the resident population on the territory of the European Union<sup>156</sup>, c) EU foreign policy actors, including foreign and security policies.<sup>157</sup> Among them, the field of humanitarian aid is most prominent both in institutional terms as well as in terms of financing.

- In the field of humanitarian aid, DG ECHO is the lead organisation in terms of coordination and funding. As DG ECHO is mainly acting as a donor, aid delivery is implemented by more than 200 national and international NGOs and international organisations, the most important of which are members of the VOICE network, the central gatekeeper for NGOs to influence EU policy making. Member States continue to develop and implement their own humanitarian aid policies, not necessarily coordinated in detail with those of the EU.
- In the civil protection field, DG ECHO is the main actor in the coordination of emergency responses (or responses to natural and man-made crises) at EU level, with the Member States being in control of the deployment of resources.<sup>158</sup> Civil protection is implemented by both public emergency services of the Member States, e.g. the police, and rescue organisation (both governmental and non-governmental).
- In the field of CFSP and CSDP the High Representative and EEAS are the main European actors. Member States are highly relevant with regard to decision making and deployment of military forces.

The three policy fields are not only shaped by a different institutional setting and history, but also by a different legal base and different issue framing, and are embedded into different epistemic communities. This situation reflects a multi-actor and multi-layered policy field involving different interests of Member State representatives, the European Commission, the European Parliament and the Council, and a well organised field of civil society organisations. The different outlooks of the actors in the field make it prone to tensions, conflicts and coordination deficiencies, in particular between the two key actors in this field, DG ECHO and the EEAS, which are two institutionally separate bodies with distinctly different organisational cultures. Whereas DG ECHO is historically anchored in the institutional development of the European Commission as a “bureaucracy *sui generis*”<sup>159</sup> and has a long history of cooperation with NGOs and international organisations, the EEAS is a ‘new kid on the bloc’, which, despite the fact that its staff originates from Commission DGs, is clearly set outside the institutional structure of the European Commission.

Both the Commission and the humanitarian NGO network have developed a joint framing of aid, based on the principles of humanity, neutrality, impartiality and independence. Only recently, specific vulnerabilities have been taken more into account, whereby the definition of vulnerability has moved from an attribute-centred understanding to a resilience-based understanding involving coping capacities. This understanding does not allow defining a social group, e.g. migrants, as vulnerable due to their status, but demands a multi-faceted analysis of the concrete situation to define vulnerabilities.

Our collection of the Commission’s crisis responses in six different case studies is an apt illustration of the challenges which may be faced when implementing migrant-sensitive emergency response

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<sup>156</sup> Boin, M., Ekengren, M. & Rhinard, M. (2006); Boin, A., Busuioac, M. & Groenleer, M. (2013). *Building European Union capacity to manage transboundary crises: Network or lead-agency model?* Regulation & Governance, 2013/1, 1-20; Ekengren, M., Matzén, N., Rhinard, M. & Svantesson, M. (2006).

<sup>157</sup> Georgieva, K. (2014). Stakes and Challenges of EU Response to Global Emergencies: An EU Policy Perspective. In: Govaere, I.; S. Poli (eds.). *EU Management of Global Emergencies. Legal Framework for Combating Threats and Crises*. Leiden: Brill Online, 11-19.

<sup>158</sup> Although UCPM Participating States also includes non-Member States of the European Union, it is discussed here only in relation to Member States.

<sup>159</sup> Wille, A. (2013). *The Normalization of the European Commission: Politics and Bureaucracy in the EU Executive*. Oxford: OUP, p. 28.

measures, due to the core concepts prevailing in the field of humanitarian aid. Unlike in the case of refugees and IDPs, migrants fall outside the scope of existing international protection frameworks, and humanitarian aid principles limit their definition as a particularly vulnerable group. Against this backdrop, it often remains unclear how much the Commission's and other EU bodies' crisis response is attentive to the specific needs and vulnerabilities of migrants in countries in crisis. This is also reflected in the circumstance that many initiatives addressing migrants have merely been of an ad hoc nature and limited to those countries that have traditionally played an important role for the EU's external migration policy, such as Libya and Lebanon, a fact raising criticism from humanitarian NGO's, who fear the politicisation of aid by migration policy actors. Although the recent shift to a resilience-based conception of vulnerability might open new perspectives of a better inclusion of migrants' needs into the provision of humanitarian aid, the lack of representation of the interests of migrants in the humanitarian aid policy field is a challenge which still has to be overcome in future.

## 9. Recommendations: Factoring the MICIC Agenda into EU Humanitarian Aid and Civil Protection Policies – Challenges and Way Forward

### 9.1. The Legal Framework

As described above, EU humanitarian aid and civil protection policies are anchored in EU primary law in two different ways, as the former is a shared parallel competence, while the latter is a support competence. However, in both cases, the respective basic acts are to be adopted by the European Parliament and the Council upon a proposal from the Commission. The fields of CFSP and CSDP are examples for intergovernmentalism, with the Council holding the right to decision making and the High Representative organising and overseeing implementation, including humanitarian actions. For coordination, the IPCR framework, an institutional mechanism of decision making involving the High Representative and EEAS and the relevant Directorates-General of the European Commission, has been developed.

- Given the highly complex legal and institutional framework involving both European institutions and the governments of Member State, improving the protection of migrants in countries of crises will need the support of both the main decision makers at the EU level and the representatives of the Member States. It is thus suggested to develop activities reaching out to the relevant decision makers, e.g. workshops or seminars, at both levels to improve the understanding of the MICIC issues among the main decision makers.

Both EU primary and secondary law clearly place humanitarian aid policies of the European Union in the broader framework of international humanitarian law. Other than the Civil Protection Mechanism, which is based on Member State's nationally organised structures and requires a call for help by a third country to be used outside of the EU, DG ECHO's humanitarian aid is guided by the principles of humanity, impartiality, neutrality and independence, which is reaffirmed in Article 2.1 of the European Consensus on Humanitarian Aid.<sup>160</sup> The usage of humanitarian aid for other objectives is clearly prevented by the Consensus.<sup>161</sup> This position has been reiterated in the EU's 'Comprehensive Approach to External Conflict and Crises', which recognised, that "humanitarian aid shall be provided in accordance with its specific *modus operandi*, respectful of the principles of humanity, neutrality, impartiality and independence, solely on the basis of the needs of affected populations, in line with the European Consensus on Humanitarian Aid".<sup>162</sup> Although the principle of independence is not mentioned in the Treaty, it can be considered as a "derived principle", as "its substance, i.e. the autonomy of humanitarian objectives from political, military or economic influences, follows from the other principles" and thus forms one of the four pillars the EU humanitarian aid policy is forced into by EU law.<sup>163</sup>

In this context, humanitarian aid challenges may arise with regard to the MICIC recommendations concerning specific activities reaching out only to migrants. In particular the concept of impartiality, defined as the delivery of humanitarian aid solely on the basis of need without discrimination between or within affected populations, limits the definition of specific target groups with specific needs. Together with the current move from an attribute- to a resilience-based understanding of vulnerability, any differentiation of a target group by criteria like national origin, place of birth, ethnicity or citizenship is ruled out and prevents the delivery of aid to affected populations, as shown in the Libya case study. The considerations of migrants' vulnerabilities developed within the MICIC framework do not easily fit into this framing, unless they are reframed in a resilience-based understanding, whereby migration status is one of several factors to be taken into consideration. This has been the case in Thailand, where the specific situation of migrants was regarded as an element adding to vulnerability.

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<sup>160</sup> Council of the European Union (2008).

<sup>161</sup> Article 214 (2) TFEU refers to „impartiality, neutrality and non-discrimination" as fundamental principles guiding the EU's humanitarian aid.

<sup>162</sup> European Commission (2013b).

<sup>163</sup> Elsuwege, P., Orbie, J. & Bossuyt, F. (2016), p. 11.

In this respect, not all MICIC guidelines pose a challenge. The guidelines aim at better access for migrants to existing services and an improved inclusion into preparedness planning and are thus easily reconcilable with the ideas of impartiality and neutrality, which aim at a broad inclusion of the affected population and at an effective and efficient delivery of support action. But the MICIC guidelines also include recommendations aimed at supporting migrants to seek a safe environment in another country, or to specific support of migrant communities. These specific measures targeting a group defined by its legal and migration status do not easily fit into the concepts of impartiality and neutrality governing the European Consensus on Humanitarian Aid.

In this respect, a further challenge has to be mentioned. Namely, the concept of resilience applied by the European Commission focuses on strengthening local capacities to cope with shocks and stresses. Due to this understanding, humanitarian aid mainly aims at supporting and re-establishing the local population in areas of crises whenever possible. This understanding also governs the resilience marker assessment framework used by the EU in humanitarian aid delivery.

The focus on ‘rebuilding better’ and empowerment of the resident population is not easily reconciled with the idea of support to migrants to be relocated to their country of origin or to another country. While in development studies the “sedentary bias” problematizing migration as “failure” is vividly discussed, the debate on humanitarian aid has not yet problematized the potential tension between ‘rebuilding’ and mobility.<sup>164</sup>

In order to better include the MICIC agenda into EU humanitarian policies, it is suggested to engage into a structured discussion process with the relevant stakeholders in the field of EU humanitarian aid policies to discuss the options and limits for the inclusion of migration issues into humanitarian aid delivery.

## 9.2. The Institutional Framework

The institutional framework for the development and implementation of the humanitarian aid and civil protection policies of the European Union is characterised by two dominant actors. DG ECHO of the European Commission interacts with the EEAS on the level of humanitarian aid policies and humanitarian aid delivery on the ground through cooperation with the EU delegations, while DG ECHO also interacts with national and international non-governmental organisations in implementing concrete projects and programmes.

Whereas DG ECHO has started to develop a wide array of instruments for evidence-based decision making in humanitarian aid, with the support of NGOs and academia active in this field, the EEAS is institutionally linked only to the EU Member States and has neither an NGO, nor an academic network at their disposal. Furthermore, the role of the EEAS in the implementation of the Common European Defence and Security Policy, with its linkage to the military and security community does not support the development of mutual confidence of actors in humanitarian aid and external relations policies. In order to better factor the MICIC agenda into EU policies on humanitarian aid and civil protection, it is suggested to develop regular bridging formats – platforms for cooperation between the relevant EU directorates and humanitarian NGOs – allowing for an exchange of concepts and ideas with stakeholders from DG ECHO, the international humanitarian aid community and the EEAS.

- In this context, capacity building measures to inform about the MICIC recommendations, involving staff of the relevant DGs of the European Commission on the one hand and the EEAS on the other, as well as staff of DG ECHO's field offices, the Delegations, and local staff of international humanitarian aid organisations, should be envisaged.

As described above, DG ECHO is cooperating with a broad range of NGOs, most of which are represented by members of the umbrella group VOICE and engaged in a continuous dialogue with DG ECHO. Although migrant issues are of concern for most of these humanitarian NGOs, migrant organisations and umbrella groups are not a part of this stakeholder network.

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<sup>164</sup> Bakewell, O. (2007). *Keeping Them in Their Place: the ambivalent relationship between development and migration in Africa*. IMI Working Paper 8, Oxford: IMI, p.10.

- In order to improve the visibility of migrants' needs, it is suggested to involve migrants' umbrella groups and international organisations active in the field of migration into the VOICE network and to organise regular meetings of the stakeholders of the MICIC Initiative with the member organisations of the VOICE network.

As shown in the six case studies, measures aiming at alleviating the situation of migrants in crises situations have been implemented as ad hoc measures by both DG ECHO and DG DEVCO. As the regular evaluation reports of DG ECHO do not employ a specific category on measures reaching out to migrants, comparable activities might exist in other countries as well, but they cannot be evaluated properly.

- In order to improve the understanding of activities funded by DG ECHO with regard to the protection of migrants in countries of crises, it is suggested to include a new specific reporting category into the reporting framework/system of DG ECHO. It is also recommended to collect and evaluate ongoing or past projects regarding this specific target group.

### 9.3. Funding

The conclusion of Framework Partner Agreements is a condition for cooperation in the implementation of DG ECHO funded humanitarian projects. FPAs are only concluded after a thorough analysis of the partner organisation using a set method of evaluation.

Procurement, implementation and evaluation of FPAs are governed by a complex set of rules aiming at the development of a high quality partnership. The evaluation is based on various standardised indicators, which are regularly used in the field of humanitarian aid. Indicators also cover outreach to vulnerable groups, whereby vulnerability is usually defined along the categories of gender, age and disability.

- Given the highly elaborated and indicator-based contracting and evaluation system for the delivery of humanitarian aid on site, established by DG ECHO, it is suggested to set up a working group for analysing the options to include indicators measuring the outreach to, and support of, migrants into the relevant assessment and evaluation procedures. The aim of this would be the implementation of indicators aiming at an improved support of migrants in crisis situations as a part of the indicator system for procurement, implementation and evaluation of FPAs and specific projects.
- In order to raise the understanding of involved organisations, compulsory capacity building measures regarding the MICIC recommendations should be offered to the staff of the organisations implementing DG ECHO-funded humanitarian aid projects on the ground.

### 9.4. Consular Protection of Unrepresented Union Citizens

As has been shown above, there exists no stable framework for cooperation among the representations of the Member States, or between them and the EU delegations in third countries. Given the fact, that closer cooperation has to be implemented by May 2018, there exists a window of opportunity to raise awareness on the protection needs of unrepresented Union Citizens among the staff members of the representations of the EU Member States and the staff members of the EU delegations.

- In fields lacking community competence, the Open Method of Coordination (OMC) is widely established as an instrument of coordination and as a specific type of European soft policy governance.<sup>165</sup> Based on tools like peer-reviews, benchmarking and comparative data analysis, this method aims at setting incentives for cooperation despite the lack of an EU competence for harmonisation. It is thus suggested to consider implementing a network of experts on the issue and a regular reporting system on challenges and good practices in order to improve the deficiencies in this area.

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<sup>165</sup> Kröger, S. (2009). The Open Method of Coordination: Underconceptualisation, overdetermination, de-politicisation and beyond. *European Integration Online Papers*, Special Issue 1/Vol. 13, Art. 5, pp. 13.

- Currently no reliable data on the number of cases and the support needed exists. It is suggested to develop a regular collection of data in a common data format and to regularly analyse trends and developments in this field.
- Finally, regular trainings on the protection needs of unrepresented Union Citizens should be factored into the schedules of diplomatic training institutes and training programmes of the Ministries of Foreign Affairs in the Member States.



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# 11. Annexes

## 11.1. Annex I: A Note on Terminology

In the MICIC Initiative framework, the term ‘crisis’ is not defined directly. The initiative denotes two types of crises whose magnitude demands a significant humanitarian response by the authorities of the country experiencing a crisis and/or by the international community: those triggered by (1) natural disasters (e.g. hurricanes, earthquakes, tsunamis, floods, etc.); and/or by (2) conflict (e.g. civil unrest, generalised violence, international or non-international armed conflict).<sup>166</sup>

The European Union has developed a specific and differentiated terminology in the field of crisis management and disaster preparedness planning, which differs from the terminology used within the MICIC framework. For ease of reading, the following annex gives an overview about the key terms used in the EU discourse and their relation to the terminological framework of the MICIC Initiative.

The European Union terminology does not use the term ‘crisis’ for phenomena covered in the MICIC Initiative. In the EU, the term ‘crisis’ is exclusively used for Common Security and Defence Policy missions abroad.<sup>167</sup> EU-documents generally follow the 2009 ‘United Nations International Strategy for Disaster Reduction Terminology on Disaster Risk Reduction’<sup>168</sup>, which does not contain a definition of the term ‘crisis’, but instead uses the term ‘disaster’ – defined as “a serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources”.<sup>169</sup>

Whereas the MICIC framework differentiates between ‘natural disasters’ and ‘conflicts’, the term ‘conflict’ is not to be found in the relevant EU documents, which differentiate between ‘natural’ and ‘man-made’ disasters. Whereby the term ‘natural disaster’ also includes e.g. earthquakes, floods, pandemics and epidemics in EU-documents, the term ‘man-made’ differentiates between ‘non-malicious’ and ‘malicious’ disasters, the first denoting industrial, nuclear or major transport accidents and loss of critical infrastructure, and the latter cyber-attacks and terrorist attacks. The impacts of climate change and ecosystem degradation are described as a major emerging risk, with migration in the context of climate change mentioned as a major element.

In recent years, both at the UN and the EU level, a clear differentiation between the concept of ‘disaster risk’ and the concept of ‘disaster’ itself has taken place, which reflects a shift in the understanding of disaster from a technical to a social concept. Defined as “the potential disaster losses, in lives, health, status, livelihoods, assets and services, which could occur to a particular community or society over some specified future time period”<sup>170</sup>, disaster risks are understood as the potential impacts of hazards, which need not automatically lead to a disaster, but could be prevented or mitigated by disaster risk reduction policies. The concept clearly separates the notion of ‘risk’ – defined as “the combination of the probability of an event and its negative consequences”<sup>171</sup> – from the understanding of ‘disaster’, which is understood “as a result of the combination of: the exposure to a hazard; the conditions of vulnerability that are present; and insufficient capacity or measures to reduce or cope with the potential negative consequences”.<sup>172</sup>

The MICIC Initiative differentiates between three phases of a crisis, the pre-crisis phase, the emergency phase, and the post-emergency phase.<sup>173</sup> This differentiation is somehow echoed in the

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<sup>166</sup> Migrants in Countries in Crisis (MICIC) Initiative (2015). *Overview: Migrants in Countries in Crisis Initiative*. Retrieved from: [file:///C:/Users/Raschel/Downloads/MICIC\\_Overview.pdf](file:///C:/Users/Raschel/Downloads/MICIC_Overview.pdf), p.2.

<sup>167</sup> Boin, M., Ekengren, M. & Rhinard, M. (2006), p. 408.

<sup>168</sup> European Parliament (2015). *Briefing: Risk and Resilience in Foreign Policy*. Brussels: European Parliament. Retrieved from: [http://www.europarl.europa.eu/thinktank/de/document.html?reference=EPRS\\_BRI\(2015\)568349](http://www.europarl.europa.eu/thinktank/de/document.html?reference=EPRS_BRI(2015)568349), p. 2.

<sup>169</sup> UNISDR (2009), p. 13.

<sup>170</sup> UNISDR (2009), p. 11.

<sup>171</sup> European Parliament (2015), p. 9.

<sup>172</sup> UNISDR (2009), p. 9.

<sup>173</sup> Migrants in Countries in Crisis (MICIC) Initiative (2015), p. 7.



EU documents by the differentiation between 'disaster preparedness' and 'disaster risk reduction' on the one hand, and 'disaster response' on the other, whereby the former refer to actions in the pre-crisis and the latter to actions in the crisis and post-crisis phase. Most EU policies in this field centre around disaster risk reduction, in particular risk analysis and resilience building.

## 11.2. Annex II: The IPCR as a New Cooperation Framework

Until 2013, the interplay between the different institutions involved in decision making on crisis responses was coordinated by the EU Emergency and Crisis Coordination Arrangements (CAA), which had been established by the European Council on 29 November 2005. The CAA became fully functional after the Lisbon Treaty implemented the Solidarity Clause in Article 222 TFEU, but soon were criticised for being too complex, difficult and too much focused on a “doomsday scenario”.<sup>174</sup> In order to overcome the tensions and inefficiencies of cooperation between the EEAS and DG ECHO, in 2013 the CAA was replaced by the European Union Integrated Political Crisis Response arrangements (IPCR), which form the cornerstone of crisis management policies at the EU level.

The IPCR were approved by the General Affairs Council (GAC) on 25 June 2013 with the aim of providing a “flexible crisis mechanism [...] in dealing with major natural or man-made cross-sectoral disasters, as well as acts of terrorism”.<sup>175</sup> Compared to the CAA, the IPCR enforced the role of both the COREPER, which acts as a representative of the Member States, and the Council and its different bodies and agencies – a move described as “a clear sign that Member States do not see crisis management only as a technocratic, sectoral endeavour; rather, crisis management is political and requires member state governments’ engagement at the highest level”.<sup>176</sup>

The IPCR consists of several tools:<sup>177</sup>

- An informal roundtable bringing together key actors and expertise (e.g. the European Commission, DG ECHO, DG HOME and DG DEVCO, where appropriate; the EEAS, relevant agencies, the Cabinet of the President of the European Council and experts from the Member States most directly affected or from relevant international organisations). The roundtable’s main function is to support the presidency in handling the situation within the Council.
- The Integrated Situational Awareness and Analysis (ISAA) report. This is an analytical report, drafted by the Commission and the EEAS, under an ISAA lead service determined by both the Commission and the EEAS, depending on the nature of the crisis. Its aim is to provide decision makers with a clear common picture of the current situation. It is uploaded to the IPCR web platform, the electronic hub used for distribution and exchange of information. The Emergency Response Coordination Centre provides regular updates on any relevant information reaching the IPCR 24/7 contact point.
- The IPCR web platform. This online tool allows for the exchange of information, including the ISAA report, situational maps and stakeholders’ contributions. It also facilitates the gathering of information for the ISAA reports through questionnaires.
- The central IPCR 24/7 contact point, established within the Emergency Response Coordination Centre at the Commission, ensures 24/7 liaison with key actors as well as performing monitoring and alerting functions for IPCR purposes.

In the event of a crisis, the Commission, the EEAS, the Member States or the General Secretariat of the Council, or the Presidency can create a monitoring page on the IPCR website, which provides regular updates on the development of the crisis. The Commission, the EEAS and the GAC can use this information to advise the Presidency on the activation of the IPCR. After convening an informal roundtable with all stakeholders (usually comprising a representative of the General Secretariat, the European Commission, the EEAS, the Office of the President of the European Council, and other

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<sup>174</sup> Minard, P. (2015). *The IPCR arrangements: a joined-up approach to crisis response?* European Union Institute for Security Studies, Brief No. 38. Paris: European Union Institute for Security Studies. Retrieved from: [www.iss.europa.eu/uploads/media/Brief\\_38\\_IPCR.pdf](http://www.iss.europa.eu/uploads/media/Brief_38_IPCR.pdf); Beriain, I., Atienza-Maziás, E. & Armaza-Armaza, E. (2015). The European Union Integrated Political Crisis Response Arrangements: Improving the European Union’s Major Crisis Response Coordination Capacities. *Disaster Medicine and Public Health Preparedness*, 9/3, 234 – 238, p. 236.

<sup>175</sup> Council of the European Union (2016). *The EU Integrated Political Crisis Response – IPCR – Arrangements in Brief*. Brussels: European Union, p.1.

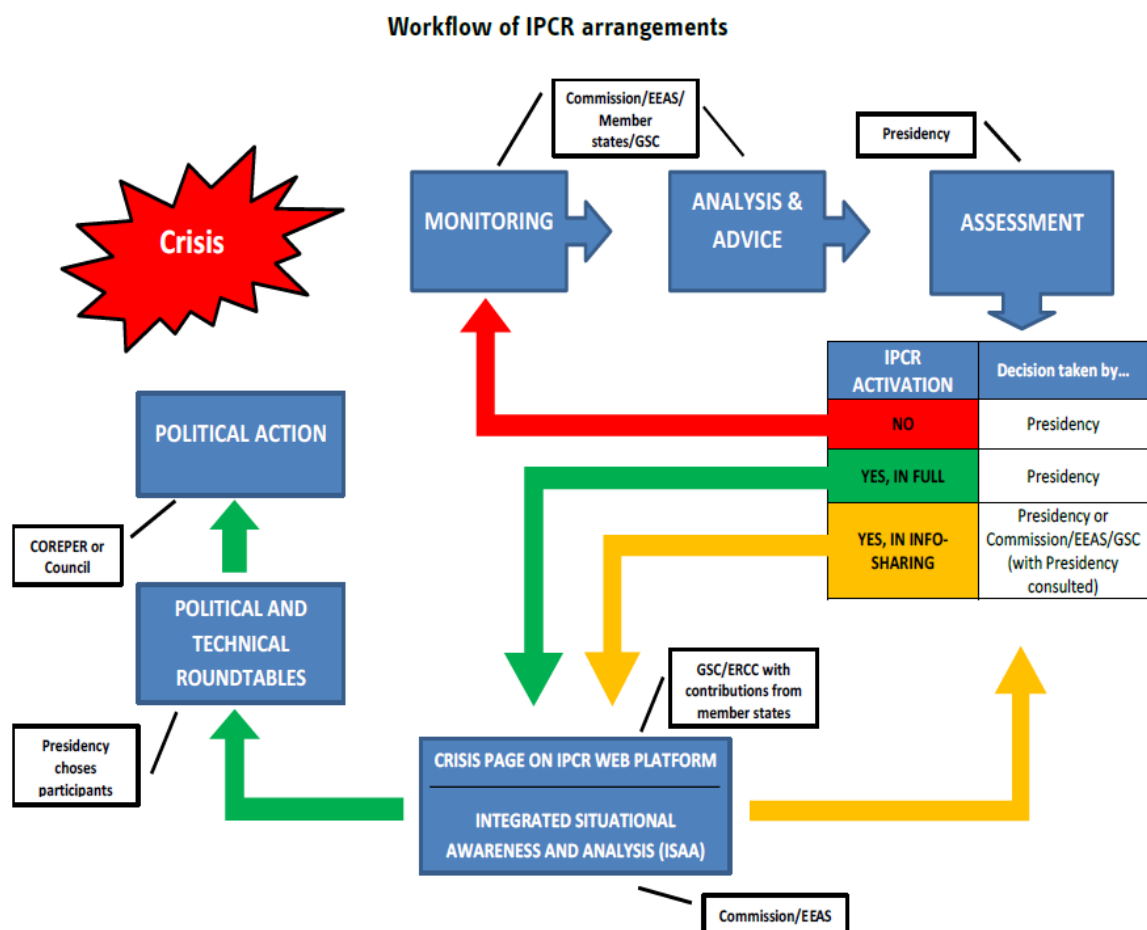
<sup>176</sup> Boin, A., Ekengren, M. & Rhinard, M. (2014). *Making Sense of Sense-Making: The EU’s Role in Collecting, Analysing, and Disseminating Information in Times of Crisis*. Vällingby: Swedish National Defence College, p. 22.

<sup>177</sup> Boin, A., Ekengren, M. & Rhinard, M. (2014), pp. 22.

relevant stakeholders or experts from the Member States or the Union bodies), the Presidency decides to activate the IPCR mechanism either in full or in information sharing mode, or not at all.<sup>178</sup>

Three levels of activation are available: a monitoring mode, which does not constitute activating the IPCR, and two levels of activation for which the supporting tools are available, namely information-sharing mode and IPCR full activation. Monitoring allows information about a crisis to be shared on a voluntary base, without activating the IPCR. The information-sharing mode involves an obligation for the Commission and the EEAS to produce ISAA reports. IPCR full activation, requested by the presidency or the Member States, brings higher visibility to the EU response and facilitates the handling of the crisis at EU level through the organisation of (extraordinary) Council or European Council meetings. In addition, full activation entails the preparation of proposals for action with regard to the EU response.

Depending on the character of the crisis, either a relevant DG of the European Commission or the EEAS is in the lead of the process. In the information sharing mode, the ISAA reports are provided to the Commission, the EEAS, and the Presidency as a base for further decision making. Only in the full activation mode the ISAA reports are also presented to COREPER or the Council. In this case, the Presidency is responsible for preparing suggestions for action, which are usually developed in high-level roundtables and working groups.<sup>179</sup> The following graph shows the workflow of IPCR arrangements:



Source: Minard, P. (2015), p. 3.

<sup>178</sup> Minard, P. (2015), p. 2.

<sup>179</sup> Minard, P. (2015), p. 2.

## 11.3. Annex III: EU Organised and Sponsored Evacuations in Lebanon 2006 & Libya 2011

### 11.3.1. Lebanon 2006

The war between Israel and Hezbollah in 2006 did not only destroy much of Lebanon's infrastructure and led to more than 1,100 civilian deaths, but also led to the displacement of more than one million people. The invasion also created a crisis for migrants residing in Lebanon and to a massive evacuation of foreigners by the governments of their countries and international organisations. In total, some 70,000 foreign nationals were evacuated from Lebanon, making use of 213 passenger and navy ships, 123 land convoys and 196 helicopters.<sup>180</sup>

The European Union was not involved as an actor in the organisation of evacuations, but several Member States organised the evacuation of their citizens. Furthermore, IOM was granted EUR 11 million to evacuate 10,000 migrants from developing countries, partly in order to prevent them from fleeing to Europe. Making use of these and other funds, some 13,000 third country nationals were evacuated by IOM. According to the literature, the entry of IOM created considerable tensions with regard to the division of tasks within the Lebanese institutions involved in humanitarian aid.<sup>181</sup>

Both the British and the French governments started their own operations to evacuate their citizens and citizens from other countries from Lebanon. Mobilising 6 Royal Navy vessels and two air squadrons, the British 'Operation Highbrow' evacuated approximately 4,500 individuals, using Cyprus as a drop off point. Less than half of those evacuated were UK citizens (2,000) and the rest (2,500) were made up of some 50 other nationalities.<sup>182</sup>

The French mission 'Operation Baliste' evacuated around 14,500 people, among them 11,300 French nationals, most of them with the use of military means. Priority was given to French citizens residing in Lebanon and French citizens on holidays in Lebanon, as well as to Lebanese residents with dual Lebanese and French passports. Around one third of French evacuees were nationals of other countries which are unknown, but include European and United States citizens.<sup>183</sup>

Greece and Italy also mobilised vessels to evacuate their citizens. Greece used a fleet of ferries almost immediately and evacuated between 2,500-5,000 people to Cyprus, including not only Greek nationals but also citizens of the European Union and other countries. Italy evacuated 350 Italians to Cyprus and then to Rome.<sup>184</sup>

### 11.3.2. Libya 2011

The EU involvement in the Libyan crisis has received considerable criticism by humanitarian NGOs and the academic literature. While the response of the UN Security Council, which imposed an arms embargo and strong sanctions already in February 2011, was praised for its accuracy, the EU response was criticised "for being too slow, too weak, too divided, and essentially incoherent".<sup>185</sup>

On 23 February 2011, the activation of the Civil Protection Mechanism lay the ground for the pooling and identifying transport means for the evacuation of an estimated 5,800 EU citizens and the deployment of civil protection experts in Libya. Following the escalation of the crisis, on 1 April 2011 EUFOR Libya, a military operation to support humanitarian assistance operations in Libya, was created. One of the tasks of EUFOR Libya was to secure the movement and evacuation of displaced persons and to support humanitarian agencies in their work when requested by the UN's Office for the

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<sup>180</sup> Jureidini, R. (2011). 12 State and Non-State Actors in Evacuations During the Conflict in Lebanon, July–August 2006. In: Koser, K., Martin S. (eds.). *The Migration-Displacement Nexus: Patterns, Processes, and Policies*. Oxford/New York: Berghahn Books, 197 – 215, p. 198.

<sup>181</sup> Jureidini, R. (2011), p. 208.

<sup>182</sup> Jureidini, R. (2011), p. 203.

<sup>183</sup> Jureidini, R. (2011), p. 202.

<sup>184</sup> Jureidini, R. (2011), p. 201.

<sup>185</sup> Koenig, N. (2011). *The EU and the Libyan Crisis: In Quest of Coherence?* IAI Working Papers 11/19. Rome: Istituto Affari Internazionali, p. 3.

Coordination of Humanitarian Affairs. Due to worries about a potential violation of the principle of neutrality in the delivery of humanitarian aid, UN OCHA never requested support by EUFOR.<sup>186</sup>

Between late February 2011 and January 2012, 790,000 non-citizens fled to neighbouring Tunisia, Egypt, Chad and Niger, as well as to Italy and Malta. 45% of those who fled (316,321) sought refuge in a country that was not their country of origin.<sup>187</sup> The EU participated with two evacuation operations, 'Pegasus 1' and 'Pegasus 2', one of the biggest EU evacuation operations ever. 'Pegasus 1' evacuated European citizens, whereas 'Pegasus 2' evacuated third country nationals, mainly Egyptians and Tunisians, who had worked in Libya. Both air-lift operations were coordinated by DG ECHO and implemented by Germany, Denmark and Belgium.<sup>188</sup>

The implementation of support operations were hampered both by a lack of horizontal coherence, particularly with regard to the intersections of human rights policies and migration management<sup>189</sup>, and massive tensions between DG ECHO and the EEAS – according to a senior EU official this was caused due to “bureaucratic competition and a battle for turf”, leading to a “confusing polyphony” instead of coherence.<sup>190</sup> Vertical coherence – the coherence between the Commission's and the Member State responses – was severely challenged both by the political support from the Italian Prime Minister Silvio Berlusconi to Muammar Gaddafi and by the unilateral decision of France to accept the Rebel government as the sole legitimate government of Libya, one day ahead of the Extraordinary European Council meeting on 11 March, which was intended as *la diplomatie électrochoc* to put pressure on other Member States to position themselves.<sup>191</sup> Although the Council did not accept the National Transitional Council in Benghazi as Libya's legitimate representative, it nevertheless recognised it as 'political interlocutor', and decided to open a liaison office in Benghazi. As this office also became operational with regard to the provision of humanitarian aid and the organisation of evacuations, major humanitarian organisation considered the EU policies as being in breach with the principle of neutrality enshrined in the legal framework of EU humanitarian aid.<sup>192</sup>

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<sup>186</sup> Gowan, R. (2011). *The EU and Libya: Missing in Action in Misrata*. European Council on Foreign Relations Commentary. Retrieved from:

[http://www.ecfr.eu/article/commentary\\_the\\_eu\\_and\\_libya\\_missing\\_in\\_action\\_in\\_misrata](http://www.ecfr.eu/article/commentary_the_eu_and_libya_missing_in_action_in_misrata).

<sup>187</sup> Weerasinghe, S., Taylor, A., Drury, S., Indravudh, P., Gregg, A., & Flanagan, J. (2015). On the margins: Noncitizens caught in countries experiencing violence, conflict and disaster. *J. on Migration & Hum. Sec.*, 3, 26, p. 32.

<sup>188</sup> Domestici-Met, M-J. (2015). The Challenge Posed by Migration to European Crisis Management: Some Thoughts in the Light of the “Arab Spring”. In: Gibbons, P.; Heintze, H-J. (eds.). *The Humanitarian Challenge. 20 Years European Network on Humanitarian Action (NOHA)*. Cham: Springer, 89-121, p. 110.

<sup>189</sup> Koenig, N. (2011), p. 7.

<sup>190</sup> Koenig, N. (2011), p. 8.

<sup>191</sup> Koenig, N. (2011), p. 9.

<sup>192</sup> Helwig, N., Ivan, P. & Kostanyan, H. (2013), pp. 40.



## SUMMARY PAPER

### SUMMARY OF PROJECT

In 2015, the European Union (EU) launched 'Migrants in Countries in Crisis: Supporting an Evidence-based Approach for Effective and Cooperative State Action', a four-year project implemented by the International Centre for Migration Policy Development (ICMPD). This EU-funded project is a contribution to the global Migrants in Countries in Crisis (MICIC) initiative, a government-led process co-chaired by the governments of the Philippines and the United States, which shares similar goals. The project aims to improve the capacity of states and other stakeholders to assist and provide protection to migrants who find themselves in countries affected by crisis, as well as address the long-term implications of such situations. Within the project, six regional consultations with states and other relevant stakeholders have been conducted, contributing to the development of the MICIC initiative 'Guidelines to protect migrants in countries experiencing conflict or natural disaster', which provide guidance for states and other stakeholders in responding to the needs of migrants caught in crisis situations. In addition, the project also develops capacity building activities to follow up on key recommendations that have emerged over the course of the project. This paper, elaborated in the Research Component of the EU-funded MICIC project, focuses on relevant EU policies and complements the empirical analysis of implications of crises for migrants and host, transit and origin countries undertaken in other reports published in the course of the project.