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From:	European External Action Service (EEAS)
To:	European Union Military Committee (EUMC)
Subject:	Concept on Protection of Civilians (PoC) in EU-led Military Operations

Delegations will find attached document EEAS 00351/6/14 REV 6.

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EUROPEAN EXTERNAL ACTION SERVICE



EUROPEAN UNION MILITARY STAFF

Brussels, 02 March 2015

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REV 6**

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Subject: Concept on Protection of Civilians (PoC) in EU-led Military Operations

Delegations will find attached the Concept on Protection of Civilians (PoC) in EU-led Military Operations, as agreed by the EUMC on 27 February 2015.

PROTECTION OF CIVILIANS (PoC) IN EU-LED MILITARY OPERATIONS CONCEPT

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ANNEX A CIVILIAN CASUALTIES ASPECTS, PREVENTION CONSIDERATIONS AND RECOMMENDATIONS

REFERENCES

- A.-** Council of the European Union Revised Guidelines on Protection Of Civilians (PoC) in CSDP Missions and Operations - (15091/10, dated 15 October 2010).
- B.-** Updated EU Guidelines on promoting compliance with International Humanitarian Law, OJ C 303, dated 15 December 2009.
- C.-** EU Concept for the Use of Force in the EU-led Military Operations (17168/1/09 REV1, dated 10 March 2011).
- D.-** EU Military lessons learned (LL) Concept (12322/1/11 REV1, dated 30 March 2012).

A. INTRODUCTION

1. In contemporary conflicts, civilians have increasingly become the victims in the struggle for power over populations, resources and territory by competing armed groups, terrorists and insurgents. Perpetrators can use their power to manipulate populations by terrorizing civilians through such means as sexual and gender-based violence, the threat of violence and/or killing, harassment, enslavement or inflicting serious injuries: this has become a frequently employed tactic in contemporary conflicts in order to achieve political goals.
2. States have the responsibility to protect their own citizens. However a lack of political will, capacity or governance mechanisms sometimes render them unable or unwilling to act. Sometimes violence inflicted on a population may even be state-sponsored.
3. For the above reasons Protection of Civilians (PoC) in armed conflict has become increasingly important in recent years, particularly during international peacekeeping efforts, such as during UN peacekeeping operations and during EU CSDP military operations.
4. Civilian populations have become a matter of particular concern in asymmetric conflicts. Under such circumstances they can become a major factor for all actors, and can play a central role in the battle for hearts and minds. In such conflicts the population's support is often the centre of gravity for many actors involved and PoC may even become a competition issue¹ to gain more public support and increase legitimacy.
5. Failing to ensure PoC during an operation could have strategic consequences due to the negative impact of media influence on public opinion. In turn this could undermine the credibility and ultimate success of a military operation due to failed expectations and resultant reduction in public support.
6. The challenges in PoC are manifold. PoC is broadly understood to include all efforts to reduce the effects of armed conflicts on civilian populations, namely by mitigating negative effects of the conduct of military operations and to actively protect civilians

¹ As was (and continues to be) the case in the Afghanistan conflict.

from threat of violence by others. For non-executive CSDP missions, the general guidance is given by Ref. A. For executive missions, the concept of PoC is relevant to the planning and conduct of military operations as this should be undertaken in a way that avoids harm to civilian populations. For pro-actively protecting civilians, PoC is primarily focused on the range of situations where military forces are mandated to provide protection from (imminent) threat of physical violence to civilian populations i.e.: in (executive) EU military operations.

B. AIM

7. Provide guidelines for greater integration of PoC factors in all phases of EU-led military operations and to contribute to achieving coherence and synergy of action in the field.

C. SCOPE

8. This concept is based on the over-arching EU Guidelines for PoC in CSDP missions and operations (Ref. A). It provides implementing modalities of those EU Guidelines specifically in the field of military operations, in the following areas: Education and Training (E&T), Planning, Conduct of Operations, Review and Lessons Learned (LL). It applies to all military operations where PoC is either a mandated task or the objective, irrespective of whether or not IHL applies.

D. INTEGRATING PoC INTO CSDP MILITARY OPERATIONS

9. PoC is of particular importance due to its moral, political strategic implications and potential consequences. However its significance in any particular operation will depend very much on the extent to which PoC is part of the mandate and tasks².
10. Before considering how to incorporate PoC into a military operation, it is essential to understand the complexity of this issue, its time span and applicable guiding principles.

² This will be determined in conformity with international law, usually on the basis of a UNSC Resolution adopted under Chapter VII of the UN Charter or the consent of the host State. Also the use of force for PoC may be envisaged in the framework of the defence of persons in close vicinity to EU-led forces.

11. PoC includes both military and non-military aspects that a military operation will have to consider and coordinate, in order to ensure a successful PoC effort; this may be viewed as a layered set of issues. PoC is inevitably a long-term effort across a broad front, usually requiring the need to: protect civilians from physical violence, protect human rights, contribute to securing the rights of access to essential services and resources, and contribute to a secure, stable and just environment as well as contribution in all areas of life.
12. According to the mandate, the military can contribute, together with police services to establish a Safe and Secure Environment (SASE) where civilians can be protected from imminent threats of violence, but until the root causes of the conflict are solved over the longer term, this will constitute only a temporary solution, in which the resumption of violence is always possible.
13. In EU-led military operations where PoC is a mandated task, an enormous array of actors in theatre have to be identified and, where appropriate and possible, coordinated with. In such circumstances military forces also need to be extremely flexible, possibly swiftly shifting from non-kinetic to kinetic actions and vice-versa as the situation requires.
14. Comprehensive and long-term PoC requires attention and action by many national and international non-military actors (e.g.: Host Nation (HN), International Organizations (IO), and Non-Governmental Organizations (NGOs)), who have primary responsibilities and capabilities for many of the actions and efforts necessary to achieve the desired outcome. The military will usually act in support of these actors, primarily enabling their efforts by maintaining a SASE. However progress towards desired outcomes will often require transition of responsibility between those different actors; and in such situations military forces can contribute by taking proactive actions to ensure that PoC is maintained during such transitional phases where risks to civilians can increase significantly.
15. In protecting civilians by using all necessary force that it is authorized by the mandate for preventing, pre-empting or responding to end physical violence, EU military forces will act in accordance with the following principles:
 - a. Mitigate PoC risks by adopting a proactive rather than a passive posture;

- b. Comprehensively engage with all other actors, to ensure the implementation of a defined framework of coordination with them;
 - c. Contribute to a protective environment, conducive to PoC;
 - d. Ensure conflict sensitivity, warranting a deep understanding of the context, including civilian population insecurities/security concerns, and implications for the military operation and avoiding inadvertent contributions to conflict dynamics and civilians insecurity.
16. Moreover, the potential risks for civilians caused by EU military forces when conducting military operations will be mitigated through the principle of do no harm, avoiding and minimizing casualties of civilians and using an ample spectrum of choices of Non-Lethal Capabilities³.
17. PoC aspects will need to be addressed through the whole spectrum of military activities: education, training, planning, conducting of operations, reviewing and lessons learned including Civil-Military Co-operation (CIMIC) procedures.
18. Where PoC is a distinctive objective of an operation it should be dealt with in a proactive way by identifying individuals and or groups at potential risk, and planning measures specifically directed to avoid and/or mitigating their danger.

E. INTEGRATING PoC IN EDUCATION & TRAINING (E&T)

19. Target audiences for E&T in PoC are Forces and Headquarters, including Commanders and Planners.
20. Education is the prerequisite, focusing on the individual awareness of the issues. Being a MS responsibility, this needs to address the complexity of the environment, give an understanding of the context, and include cultural awareness.
21. Appropriate education would help to build the requisite skills / competence to take important decisions regarding PoC and to help military commanders break down PoC into clearly prioritized tasks, to optimise achievement of operational objectives. For this purpose specific PoC education and training programmes should be developed and

³ The use of "Non-Lethal Capabilities" (or "Less Lethal Capabilities") is that one of capabilities explicitly designed and primarily employed to achieve, in the normal conditions (of use), a relevant effect on persons or equipment while minimising fatalities, permanent injury or damage to property and the environment.

delivered by MS comprising: education on international law and Standards, including in the field of International Humanitarian Law (IHL), Human Rights, Gender, elements to respond to sexual and gender based violence and Children Affected by Armed Conflict (CAAC), conflict analysis and conflict sensitivity / do no harm, issues regarding discrimination, forced labour and trafficking (in situation of armed conflict and post-conflict environment).

22. Pre-deployment training. This is also the responsibility of the contributing Member State (it is reinforced with "in field" / operational EU training). The training audience level should go down to squad/team in order to guarantee that every isolated acting element has the appropriate skills to deal with unexpected situations. In that sense, Scenario Based Training, embracing every HQ/force level, in order to prepare personnel to meet the potential challenges that they may face while operating, is appropriate.
23. Training on relevant elements of International Human Rights Law, International Refugee Law and International Humanitarian Law⁴ as well as on the operational documents (Mandate, Operation Plan and Rules of Engagement) tailored to the specific operation that military personnel are preparing for is highly important; this is also appropriate to the training of planners.
24. Prevention and mitigation pre-deployment training should be undertaken in order to negate civilian casualties.
25. Conflict sensitivity and cultural awareness training (including local customs, particularly those that reinforce PoC activities) is strongly encouraged; this can help to ensure correct and appropriate conduct by the Force and avoid negative attitudes and behaviours from host-nation populations.
26. Pre-deployment specialised training and equipment training on Non-Lethal Capabilities and their use (if authorised by ROEs) can assist in the prevention or reduction of civilian casualties.
27. This training could draw upon MS national standards and certification, and EU⁵ & UN standard training modules.

⁴ The extent to which each of the areas of international law applies in any given situation may differ.

⁵ Three EU pre-deployment training modules, for CSDP staffs, on Human Rights, Gender and CAAC are going to be rolled out to MS in 2015.

F. INTEGRATING PoC IN PLANNING

28. The "Political Framework for Crisis Approach"⁶ (PFCA)" should provide, where applicable, initial indications on PoC. If PoC is a mandated task or the objective, it should be further detailed in the Crisis Management Concept⁷ (CMC). Conflict analysis preceding or feeding into the PFCA should provide specific analysis on PoC related factors.
29. PoC requirements must be integrated from the very beginning of planning and then in conduct of CSDP military operations, in accordance with Ref. A. The aspects that follow should be addressed during the planning phase of the EU military operation.
30. An analysis of the role and mandate of different protection actors⁸ should be conducted early on, in order to plan for greater coordination of efforts and complementarity in the field. Different protection actors may well have different understandings of PoC; they will likely agree ultimately (mission accomplishment) and will likely interact and overlap in responsibilities during conduct of the operation.
31. Subsequent coordination with other military and civilian PoC actors should also be established early and maintained throughout the planning and conduct of the operation.
32. The planning should include, whenever possible, indications on how to implement PoC.
33. Resources and Capabilities must match the Mandate's level of Ambition for effective PoC, so that the military operation can maintain its credibility. This could imply that an experienced team with senior experts on human rights, gender, CAAC, IHL, and conflict sensitivity should take part in planning, to ensure effective implementation of PoC.

⁶ PFCA describing the CA of the EU to the management of a particular crisis, to all EU stakeholders and assessing its impact on the EU interests, values and objectives, along with possible EU lines of engagement, objectives and effects, to address the crisis.

⁷ CMC is the conceptual framework describing Common Security and Defence Policy (CSDP) activity to address a particular crisis, within the EU CA.

⁸ Protection Actors: include but are not limited to the following (both civilians and military) in an area of operation: The UN, EU, other International Organisations, ICRC, humanitarian and Human Rights organization, Multinational Coalition Forces (with a clear mandate on PoC), GO, NGO...the Host State, Rule of law personnel (often putting in place uncoordinated complementary protection activities).

34. When PoC is the objective or an aim, military operation tailored design should be applied: CONOPS and OPLAN should identify PoC related missions and objectives, in accordance with the mandate of the military operation. Mitigating risk for civilians (by PoC activities and avoidance of collateral damages, especially those that would cause civilian casualties) should be considered in Operational Planning.
35. Particular attention should be paid to plan for preventing (avoiding/minimising) and handling of civilian casualties, during the planning phase. Prevention of civilian casualties is a legal obligation. The exact scope and content of this obligation will differ depending on whether IHL applies or not⁹. Beyond these legal obligations, civilian casualties could cause loss of strategic consent to EU Forces and they could well:
- a. undermine other EU objectives, whilst assisting an opponent's propaganda efforts;
 - b. create lasting repercussions that would impair post-conflict reconstruction & reconciliation.

A mechanism should therefore be put in place to address complaints and where appropriate, to compensate any civilian who may have suffered harm or damages as a result of EUFOR actions, without prejudice to the SOFA for the operation and other applicable law. This could turn out to be a critical aspect in mitigating the effects of collateral damages, in particular those which involve civilian casualties.

36. Strategic level benchmark for PoC success should inform relative metrics and indicators at the operational and tactical levels: these should all be developed, tested and used, in collaboration with the humanitarian community, in order to best guide decision makers and military commanders in their work.
37. OPLANs should provide clear guidance on deciding to what extent the military should perform tasks related to the protection of civilians, be it through maintaining public order or contributing to maintaining a SASE and, where necessary, to engage in crowd and riot control and in the arrest, detention and transfer of perpetrators. In this respect, distinctive ROE related to the implementation of PoC should be defined. A pocket card setting out the main code of conduct and ROE related to PoC is also advisable.
38. EU military forces' efforts should be planned so as to build upon existing (or pre-conflict) civilian and military protection systems. This entails detailed analysis of the

⁹ For instance proportionality under IHRL and IHL are not synonymous

conflict dynamics and actors, e.g. understanding the roles and interests of the host government and the state institutions, international and national NGOs, local civil society, and local tribal groups. It also requires gaining an appreciation of relevant social norms. This understanding is particularly important for the military to support efforts of other actors aimed at promoting long term, sustainable protection through the Rule of Law (RoL). The EU has a particular strength in incorporating these elements in the planning phase, through its situational awareness gained by the presence of the EU Delegations, including the European Commission staff in most crisis situations. A comprehensive approach at headquarters levels, including close cooperation with the European Commission is therefore essential when planning PoC military operations.

G. INTEGRATING PoC IN CONDUCT OF OPERATIONS

In accordance with the mandate, the following aspects need to be considered / addressed in this phase:

39. Thorough understanding of the content of this concept is required at all levels in the chain of command for effective implementation of PoC mandates, starting with identifying individuals, groups and minorities at potential risk. In this regard special attention needs to be paid to Children and to Gender issues. It would be important to implement the protection strategy, rapidly assessing the local environment, coordinating and possibly synergizing efforts with all other actors.
40. Capabilities required in CSDP military operations to fully address PoC in the Joint Operation Area (JOA) will include:
 - a. Expert legal advisor(s) and political advisor(s) to support Commanders;
 - b. Conflict Advisors, Cultural advisor(s), human rights, gender advisor(s) and CAAC advisors to support Commanders;
 - c. Very well trained officers (possibly gender balanced) and well informed with respect to human rights and local culture and customs, who can detect and address sexual and gender based violence (both in medical staff and patrol teams);
 - d. STRATCOM: a robust communication plan to engage with and manage the level of expectations of the local population (Military Information Operations

- (MilInfoOps) will help shape perceptions). Managing expectations will help accomplish implementation of the mandate;
- e. Intelligence. Intelligence enables early warning, provides the basis for pre-emptive and responsive measures by the force, and contributes to monitoring of the implementation of PoC aspects in operations.;
 - f. Strong Civil-Military Co-operation (CIMIC) capability to ensure interaction and enhance coordination with all the PoC actors in the planning and conduct of PoC tasks. Senior CIMIC could also exercise an overarching coordination role, in support of the commander, for PoC, across the entire EU military operation. CIMIC capability should maintain close contact, as appropriate, with local UN CMCoord officer and ECHO office. Best practice also highlights the importance of OHQ CIMIC liaison with the European Commission.
41. When PoC is the (main) objective to be achieved, the capability for a quick response to intervene in the JOA should be considered.
42. Coordination of efforts, with the full spectrum of protection actors aimed at assuring coherence and efficiency should be achieved during this phase. Proactive posture, understanding the capacities and safeguarding the roles, mandates and competencies of the various actors should be a goal. The upholding of humanitarian principles and sharing of information will also assist in this endeavour. Participation in appropriate PoC fora, (i.e. the Protection Cluster) directly or through the UN Office for the Coordination of Humanitarian Affairs (OCHA), as well as establishment of relevant coordination mechanisms at the operational and tactical levels with the relevant PoC actors, should improve PoC. Practically, this could be (e.g.) through:
- a. enhancing situational awareness and early warning;
 - b. adapting the military efforts as necessary (troop deployments, patrols);
 - c. enabling other PoC activities;
 - d. avoiding overlaps and duplication of efforts, ensuring complementarity;
 - e. establishing trust between PoC actors, and (with) the local population and avoiding harm to civilians.
43. Engagement with the local communities is essential within PoC. This may include rapid assessment of the local and supporting environments in order to synergize all

efforts, and to exploit all available capacities and maximize the outcome from limited resources.

44. ROE should define precisely when and how use of force is allowed. Ref. C provides guidance in this respect (both for situations of armed conflict and for other situations).
45. Use of force in PoC may compete with FP. It is imperative for an EU military force to implement all measures possible to prevent and / or minimize civilian casualties. Policy considerations in this respect may lead to ROE that are more restrictive than could be legally permissible. However, in all cases adequate force protection should be ensured whilst seeking the fulfilment of the mandate. This may require a delicate balancing act in particular PoC scenarios (e.g. counter-insurgency): **FP, (Prevent or minimize harm to civilians) & PoC**. Annex A provides a non-exhaustive list of civilian casualties' prevention considerations and recommendations. This issue should be covered by education (possible case study) and pre-deployment training.
46. Eventual need for a compensation mechanism (individual or collective) should be addressed in this phase.
47. Mitigating Measures. In order to prevent the risk to be perceived as overly biased, mitigating measures should be adopted in coordination with other relevant actors such as CIMIC teams set up in early planning.
48. Engaging with authorities and armed groups requires coordination and coherence between all the protection actors involved.
49. Accountability of perpetrators is of paramount importance. To this end, whenever relevant (Ref. B) military commanders should include in their reports an assessment of the IHL and human rights situation, information concerning serious violations of the IHL and human rights violations or abuses and ideally an analysis and suggestions of possible counter measures to be taken by the EU.
50. A good measure of the effectiveness of a PoC effort is both the reduced level of violence and threats against civilians and the subsequent change in attitude of the local population. Feedback from the population is critically important and CIMIC has a crucial role to play in this. Such feedback could be obtained by different means, i.e. engaging in community group meetings, through religious leaders, public surveys, media, NGOs (if willingly) and other relevant actors, both military and non-military,

with particular focus on minorities or vulnerable groups such as women and children. Without prejudice to the obligations of MS and others, and avoiding increased risk, it is important to seek to encourage the population, empowering people, to take responsibility for their own safety and explaining to them, through appropriate MilInfoOps activities that the military are there for their benefit.

H. INTEGRATING PoC IN REVIEW AND LESSONS LEARNED (LL)

51. Operation review reflects the OpCdr/MCdr assessment of the progress of the operation for the reporting period. It facilitates the decision making process for the future of the operations, with particular focus on possible changes in the overall PoC Strategy.
52. As a command tool for continuous improvement, the LL process should enable the improvement of the overall effectiveness and efficiency of the use of CSDP tools in the PoC (Ref. D).
53. In order to achieve such efficiency, an effective LL organisation should employ the following principles:
 - a. Effective leadership. Direction, engagement and support of the chain of command of an EU-led operation for PoC are the cornerstones of an effective LL process;
 - b. Committed stakeholder involvement. Cooperation, coordination and communication are key elements required by stakeholders to add real value to the process and committed involvement is essential;
 - c. Quality Information Assurances. Information and data regarding PoC must be thoroughly assessed, in order to ensure a rigorous verification of all lessons observations and endorsement of lessons identified, setting the benchmark for downstream lessons implementation action;
 - d. Robust lessons structures in the chain of Command. The activated HQs have a pivotal role to play in the production and collation of both properly verified lesson observations and endorsed lessons identified. Accordingly there is a strong requirement for Commanders to develop and maintain durable LL structures, in order to avoid that the recurrent staff rotations might hamper the effectiveness of the LL process.
 - e. Appropriate level of lessons observations. It is expected that the collection of lesson observations may vary across the spectrum of levels (tactical, operational

and military/politico-strategic). Careful consideration will therefore be required not to initially disregard lessons observations which, although not obviously relevant, may have wider implications (also for other domains).

- f. Transparency and LL sharing. The advantage that LL process may contribute to gain in challenging new environments can only be achieved by being transparent and candid in the articulation and exchange of lessons (observations, identified and learned) along the whole LL process.
- g. To that end, in the case of PoC, LL databases (including those LL of cases where there were high risks of harm to civilians) should be updated, assessed and disseminated widely into an area of operation and captured in the relevant training syllabi. They should be retained as a resource for units that rotate into the JOA. The databases should be updated as a case progresses and facilitate swift searches for PoC LL.

CIVILIAN CASUALTIES ASPECTS, PREVENTION CONSIDERATIONS AND RECOMMENDATIONS

The measures that follow need to be properly considered, implemented and assessed in all phases of an operation, starting from initial planning (within means, capabilities and resources available). Depending on the mandate and circumstances on the ground, the following civilians casualties aspects, prevention considerations and recommendations should be considered as they will help commanders, at all levels, to better plan and conduct military actions (the list is non-exhaustive)¹⁰:

- a. Avoid contacts between civilians and manoeuvre units (in some cases "stay put" messages may be effective in keeping civilians out of the way of manoeuvre units, especially if humanitarian assistance can be delivered to civilian locations and EU Forces need Freedom of Movement (FoM));
- b. Because perpetrators may be located among civilians and may even attempt to use civilians as shields, it is vital to envisage modifying or delaying operations when civilians are at risk;
- c. When time and resources permit, clearance and repair of damaged infrastructures, such as buildings, bridges and roads can help prevent civilian casualties; in addition, such clearance and repair can help protect civilians (e.g. to allow quick access for responders to PoC threats);
- d. Remove unexploded ordnance and/or take other measures to avoid it causing casualties (e.g. markings and warnings);
- e. The establishment of a local civilians casualties prevention working group, in the JOA, to meet periodically, (could include OPS, PIO, INT, INFO OPS, LEGAD, LOG, PA (Public Affairs), fire representatives) can monitor risk in movements and engagements, assess prevention activities, incorporate Lessons Learnt (LL) etc.;
- f. The establishment of systematic procedures in advance to respond to civilian casualties incidents (they include: reporting, tracking, investigation and public response);

¹⁰ based on "ATTP 3-37.31", (available at <https://armypubs.us.army.mil/doctrine/index.html>)(Product Types->Mid column-> ATTP-Army Tactics, Techniques and Procedures)(approved for public release; distribution is unlimited)

- g. Good personal relationships established in advance with key HN leaders (including political, religious or tribal leaders, members of the business community, academia, women's groups, minority groups) can be critical in mitigating the effects of civilians casualties.
-