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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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FORWARDING NOTE

From : Committee for Civilian aspects of Crisis management

To : Political and Security Committee

Subject : Compendium of principles for the use of force and consequent guidance for the issue of rules of engagement (ROE) for police officers participating in EU crisis management operations

Delegations will find enclosed a document on "Compendium of principles for the use of force and consequent guidance for the issue of rules of engagement (ROE) for police officers participating in EU crisis management operations".

The Committee for Civilian aspects of Crisis management invites the Political and Security Committee to take note of this document.



Compendium of principles for the use of force and consequent guidance for the issue of rules of engagement (ROE) for police officers participating in EU crisis management operations.

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REFERENCES

- Treaty on European Union
- Code of Conduct for Law enforcement Officials
(UN General Assembly Resolution 34/169 of 17 December 1979)
- Basic Principles on the Use of Force and Firearms by Law enforcement Officials
(United Nations, Eighth Congress report, chap. 1, sect. B.2)
- Presidency Conclusions Nice (SN 400/1/00 ADD1 REV1)
- Presidency report to the Göteborg European Council (doc. 9526/1/01 REV1)
- European Convention for the protection of Human Rights and Fundamental Freedoms
- Code of Conduct for Law Enforcement Officials
(UN General Assembly Resolution 34/169, 17 December 1979)
- Suggestions for Procedures for Coherent Comprehensive EU Crisis Management
(doc. 8945/2/02 REV2)
- Comprehensive Concept for Strengthening of Local Police Missions (doc. 9535/02)
- EU Comprehensive Concept for Police Substitution Missions (doc. 8655/1/01 REV1)
- Guidelines for the development of Rules of Engagement for the United Nations Peacekeeping operations (UN MPS/981, February 2001).

I. INTRODUCTION

This document addresses the general concept for the use of force and firearms for an EU police component in crisis management. It is a model to be considered in the drafting of future mission specific ROE.

Within the framework of the mandate, and according to the Operation Plan (OPLAN) and applicable laws, ROE are directives to police commanders and individual police officers that define the circumstances, conditions, degree, and manner in which the use of force and firearms may be applied in the execution of their duty.

The development of ROE is part of the operational planning process of a police mission. Every police mission, when mandated and tasked with executive law and order functions or armed for self-defence, will require a mission specific ROE.

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While this Compendium of principles for the use of force, may restrict police measures, especially the use of force, they do not:

- address specific doctrine, tactics and procedures;
- address safety related restrictions;
- address or limit the right of self-defence and interventions to protect third persons.

When a police mission is tasked with executive police functions (substitution missions), issues related to the use of force, powers of arrest, detention and searches and other means, will be executed in accordance with the applicable laws for that specific mission. Operational aspects will be covered by Standard Operation Procedures (SOP), or other measures.

1. EU Police Missions Concepts

(a) In Nice, two generic concepts of police missions were defined:

- Strengthening of local police forces, in the field of monitoring, mentoring, training and selection, organisation and restructuring;
- Substituting for local police forces, notably where local structures are failing, and where the main task of the EU police forces, which should be deployed as early as possible, is to contribute to restoring public security (keep order, protect people and property). This means tackling violence, reducing tension and defusing disputes of all kinds, by facilitating the re-activation of judicial and penal facilities.

(b) The EU Member States have the full range of necessary police capacities and capabilities for such missions, being able to take on the executive functions involving the most complex of substitution missions. The police capabilities committed comprise both police forces with civil status and police forces with military status of gendarmerie type. Member States may contribute to this type of operation with individual police officers, specialised teams,

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integrated police units and formed police units¹. These capacities should complement each other, taking into account the specific characteristics of each situation. This variety of police forces enriches the capacity of the European Union and provides added value to undertake a wide range of police missions.

- (c) To perform those task and to carry out police duties in substitution police mission having executive powers, (and in those strengthening mission carried out in destabilised situation where the personal security can be endangered), the majority of the police officers in the various functions can be armed. For this reason the EU Police Head of Mission must set up the procedures and give guidance for the rules of engagement (ROE) in relation to the specific mission and task.
- (d) Each mission will have a different mandate structure and organisation. The actual Rules of Engagement and the police armaments and weaponry have to reflect the situation on the ground. To this extent the Police Head of Mission will need to carefully evaluate the possibilities and needs and take into account all the perspectives. In this regard the Fact finding mission (if possible) will permit the evaluation of a situation and contribute to the preparation of the ROE. Every mission has its own specialities and any given mission is subject to evolution throughout time. The modular ROE structure proposed provide the necessary flexibility and its elements can be adapted to any new situation.

2. Purpose and scope

- (a) The purpose of this document is to give the Police Head of Mission a tool when developing and creating future Rules of Engagements. This document is foreseen as a broad living document to be improved over time as experience is gained. It contains the majority of possible elements, weaponry and procedures and is to be seen as the basic framework for future Rules of Engagement.
- (b) This document comprises concept and comprehensive Rules of Engagement for an EU police component.

¹ Formed Police Units, which either cannot be placed under military responsibility or cannot be deployed in non-stabilised situations. These units can be constituted by integrating several smaller size units of the same Member State.

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Within this framework it has been foreseen that the mandate was given and according to the Operation Plan (OPLAN) the ROE are defining parameters under which the EU police component can operate. This document provides for the whole range of policing including typical pro-active police measures, use of minimum force and firearms as well.

3. Approval and changes

- (a) Once the CONOPS is approved, the Police Head of Mission (PHoM), assisted by the appropriate staff /Planning Team and as necessary by the Police Unit, will be responsible for the production of the Operational Plan (OPLAN). Furthermore, the Police Unit will contribute in support of the PHoM to the elaboration of the appropriate Rules of Engagement and the Force Generation Process. CIVCOM will provide advice and recommendations to the PSC on the OPLAN, including an annex on ROE. In the light of advice and recommendations of CIVCOM, the PSC will evaluate the OPLAN which will then be submitted to the Council for approval.
- (b) The PSC will prepare its opinion for the Council on the re-focusing of EU action with a cohesive set of options. For the development of these options, the procedures outlined in the preceding phases will apply. In that context, the Police HoM, may recommend supplementary or more restrictive ROE that may be required due to the changes in the operational situation.²

4. Mandate

- (a) Launching an EU-led police Crisis Management Operation will always require a Council decision. The decision will reflect the legal basis for the use of force. Use of force that may be relevant for EU-led police Crisis Management Operation will be permissible in the following cases:
- pursuant to permission of the host government;
 - in self-defence;
 - pursuant to authorisation by the UN Security Council or by a competent regional organisation under the UN Charter;

² In accordance with Crisis Management Procedures, p. 50, point 123.

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- if otherwise permitted under international law.
- (b) These decisions will contain or refer to the relevant elements of a mandate. They will also include provisions pertinent to the use of force in the operation.

5. Legal framework

- (a) The mandate of an EU-led police operation should determine the legal framework (applicable laws), which will be applied in executive law enforcement operations.
- (b) EU police personnel when mandated and tasked with executive law enforcement functions will, as a principal, apply the laws of the host country in conformity with international law, including human rights standards. EU police personnel must be knowledgeable in the international human rights standards for law enforcement personnel in order to properly exercise any kind of crises management operations.
- (c) As a principle, EU police officers when executing law enforcement functions have to apply the laws of the host country/applicable laws of the area of operations. ROE, which should be based upon the applicable laws in conformity with international law, further regulates the use of force and firearms. Sending states should clarify, and inform the Police Head of Mission, on any restrictions, which could impede the operability of their personnel.
- (d) The fundamental principles of necessity and proportionality gives the overall frame when regulation the use of force and firearms. These principles require that force should be used only when strictly necessary for law enforcement and maintaining public order and that the application of force should be proportional, i. e. force should be applied only the extent required for the legitimate ends of law enforcement and maintaining public order.

6. Applicability

The Rules of Engagement are applicable to all police officers assigned by the Member States or Third States to an EU-led police mission. The authorised area to conduct and execute Rules of Engagement is limited to the mission area outlined in the mandate.

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7. Responsibility

The implementation of the ROE is the responsibility of the PHoM. He is answerable for issuing them to all subordinate police officers and to making sure that all understand them through induction training. The Police Head of Mission is not permitted to exceed these guidelines/directives, but if he/she deems it necessary can impose limits and restrictions on certain actions. All police officers have an obligation to seek clarification if the ROE are considered to be unclear.

8. Violation

The following procedures apply in dealing with ROE violation:

- (a) Any incident involving a violation of the ROE by police mission personnel will be reported through the EU chain of command as soon as possible.
- (b) Any violation of the ROE must be subject to a formal investigation and the result forwarded through the chain of command. All disciplinary or judicial procedures undertaken on the basis of such investigation will be conducted by the competent authorities of EU member States or other States participating in the mission, in accordance with the provisions of relevant national law and international agreements. The relevant law is the law of the concerned EU member States and other participating States.
- (c) Corrective measures including training should be taken to avoid and prevent re-occurrence.

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II. REGULATIONS FOR THE USE OF FORCE INCLUDING FIREARMS

9. General Principles

A police component in an EU led crisis management operation will only resort to the use of force when every reasonable effort to resolve a potential hostile confrontation by other means than the use of force, has failed. It shall not use more force than is absolutely necessary to achieve the legitimate law enforcement objective.

It will be up to the Police HoM to establish a reporting system on the use of force.

- (a) When an incident occurs that potentially requires the use of force, the following principles will be adhered to:
- i) When possible, negotiations and warnings of the intent to use force must be exhausted before any use of force is initiated.
 - ii) Only the minimum use of force necessary for achieving the immediate law enforcement aim shall be employed.
 - iii) All measures to avoid escalation of force must be exhausted before the use of any force is initiated.
- (b) The use of force, in the context of Policing, and consequently in EU crisis management operations in substitutions missions, can be construed as the use, or threat to use the minimum physical force with available means to uphold the law and/or in the fulfilment of the mandate given by the EU Council.

It is impossible to issue specific guidelines for the use of force in every scenario; therefore, the final justification for the use of force in carrying out his/her duty will remain the responsibility of the police officer concerned, unless otherwise stipulated in this document.

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- (c) In case of a clearly identified demonstration, authorisation for the use of force to disperse a mob or an unruly assembly, should, if the circumstances so permit, be given by the Police Head of Mission, as civilian authority, to the Police commander in charge of the operation.
- (d) If children or juveniles are involved in an incident, where the use of force is inevitable, particular care and attention should be taken to the force proportions and ratio.
- (e) Medical aid is to be rendered to all injured persons, if possible. The relatives of those affected are to be notified;
- (f) Debriefing should be provided for all mission personnel involved in use of force or who experience trauma in the course of their duty.

10. Equipment and weaponry

- (a) The necessary equipment and weaponry for police officers/units assigned to an EU Mission will be approved with the OPLAN;
- (b) The Police HoM will take account of the national equipment and weaponry when defining the tasks of the contingents;
- (c) For the purposes of this document, equipment and weaponry will refer to all physical means including transport designed or adapted and intended to:
 - prevent, contain and overcome any confrontation or threat from hostile individuals respond to an attack;
 - close, defend any specified area.

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11. Force Barometer

The level of force to be used by police officers in any given situation will be dictated by the prevailing circumstances and will take into account the possible factors of physical and mental weaknesses of the persons towards whom is directed. The concept of proportionality will always apply, starting with minimum force, and where necessary escalating to the appropriate levels as required by the developing situation. Generally speaking, the approach will progress along the following steps, if the necessary means are available:

- negotiation with the opponent;
- use of physical force without the use of weapons;
- the use of force/means such as shields, batons, police dogs, pepper spray, riot control agents, - means other than firearms;
- use of firearms.

12. Negotiations

A Police Officer must in any situation remain calm and authoritative. If he/she does so the use of force will not be necessary in many instances. Trained negotiators should be used where possible. The goal should be to control the situation and negotiate a solution, however the negotiation phase should not give to the opponent time to strengthen its position.

13. Generic principles for the use of weapons

The possession and carriage of weapons in an EU mission area must be authorised under the mandate, and regulated by the Police Head of Mission who will draw up appropriate regulations and specify the type of weapons which will be used in the mission.

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To be issued with a weapon (notably firearms), and having it as personal equipment gives a police officer a specific responsibility with regard to custody, care safety and use of such weapons. Specific regulations and measures can be taken to facilitate the security of weapons when not in use.

The Police Head of Mission will issue guidelines regarding the circumstances in which weapons must/can be carried, and what to do in regard to off duty, leave including the possibilities for secure storage facilities.

Any person injured as a result of the use of a weapon by the police, must receive appropriate medical attention if apprehended, or medical attention if requested.

Whenever a weapon is drawn, or used in the execution of duty, or whenever warning shots are fired, the police officer concerned will report the circumstances giving all the relevant details through the chain of command for the information of the Police HoM.

14. Use of firearms

(a) Police Officers shall not use firearms against persons except in the following circumstances and only when less extreme means are insufficient to achieve the following objectives:

- to defend themselves or others against an imminent threat or serious injury;
- to prevent an imminent threat of death or serious injury;
- to repel an actual attack or prevent an impending dangerous attack on essential institutions, services or facilities;
- to secure the arrest of persons who are causing a serious threat to life and is resisting apprehension and/or appropriate efforts to stop the threat;
- to secure the arrest of persons who have initiated, are carrying out or have carried out a dangerous attack on essential institutions, services or facilities and are violently resisting apprehension;

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- (b) If the necessity arises to use firearms in the execution of duty, the police officer(s) shall wherever possible give a clear warning of their intention to use weapons to achieve their objectives. They must ensure as far as possible that the wrongdoers are able to hear the warning and are in a position to respond to it. If their orders are not then obeyed, warning shots may be fired to indicate their resolve, before proceeding to use the weapons taking into account the concrete circumstances;
- (c) If there is any risk for bystanders to be endangered, the police may open fire only as a last resort in an extreme emergency;
- (d) A police officer under the direct command of a superior may open fire only on the superior's order.

15. Use of police dogs

- (a) Police dogs may be used when and where ever such use is considered appropriate in similar confrontational situations to those in which weapons and batons are used, if the handler or officer in charge considers their use appropriate and operationally desirable.
- (b) Before making use of police dogs, the police shall wherever possible give people notice of their intention to unleash dogs unless their orders are obeyed, while also as far as possible ensuring that those people are able to comply with their orders.
- (c) Only experienced, especially trained personnel may use police dogs.

16. Use of batons

- (a) Approved batons are primarily weapons of defence and may be used for the purposes outlined under the use of firearms, if appropriate before the situation escalates to the necessity for firearms, and include the following:

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- averting an actual or impending attack on property;
 - securing performance of official actions meeting with active resistance, or
 - securing performance of official actions meeting with resistance, where it is considered to be a pressing need for them and when less drastic use of force is considered clearly unsuitable for the purpose;
- (b) Police Officers under command must await instructions from the Commander before charging.
- (c) When using batons, police officers should always aim for arms or legs and avoid contact with the head;
- (d) Before using batons to disperse unruly mobs or to clear streets, buildings etc the police shall give the wrongdoers notice of their intention to use batons and if possible allow time for them to respond positively. However, if those people are 'trapped' for whatever reason and are not in a position to obey such orders they should not be subjected to a baton charge.

17. Use of riot control agents

- (a) Before making use of riot control agents, the police shall wherever possible give wrongdoers notice of their intention to release riot control agents unless their orders are obeyed, while also as far as possible ensuring that those people are able to obey those orders;
- (b) Because of the uncertainty of the outcome of the use of riot control agents on an area of operation it should be used in the smallest quantities, for the shortest possible time and always used by experienced trained personnel;
- (c) If riot control agents is used with a grenade launcher, or equivalent equipment, it should never be aimed directly at wrongdoers but in front of them or behind them.

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18. The use of Pepper Spray.

Pepper spray is a chemical product intended to temporarily enable the opponent individual by effect of irritation. It can be used by police officers to oppose a resistance and to stop an attack and is normally issued, by some police forces, as part of the personal equipment/weaponry. Its use will:

- be assimilated to that of the personal equipment;
- follow national regulation and limitations.

19. The use of handcuffs

Handcuffs are a mean of coercion on an individual but their use is not intended as a mean to apply force and for this reason they can be used only as follows:

- handcuffs should be used on arrested persons to ensure their safe detention and the safety of the police;
- use of handcuffs is a deprivation of liberty and should only be used on prisoners or persons who is a danger to himself/herself or others.