



**TASK FORCE
ON THE EU PREVENTION
OF MASS ATROCITIES**



**THE EU AND THE PREVENTION
OF MASS ATROCITIES
AN ASSESSMENT OF STRENGTHS
AND WEAKNESSES**





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The EU and the Prevention of Mass Atrocities - An Assessment of Strengths and Weaknesses
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LETTER FROM THE BUDAPEST CENTRE FOR THE INTERNATIONAL PREVENTION OF GENOCIDE AND MASS ATROCITIES

When establishing the Budapest Centre for the International Prevention of Genocide and Mass Atrocities, its founders envisaged filling the critical need for a dedicated entity in Europe to promote international efforts to prevent mass atrocities, and to increase the role of Europe, including the European Union, in such efforts.

In the autumn of 2011 the Budapest Centre established a Task Force to review the capabilities of the European Union in responding to threats of mass atrocities. The review was expected to support on-going activities of the European Union and its member states regarding the implementation of the responsibility to protect, explore the potentials for more coherence and better cooperation and develop practical policy recommendations. Based on the previous work of the Budapest Centre, the Task Force was encouraged to use a ‘mass atrocity lens’ in its work. Furthermore, the findings of the Task Force were expected to encourage and facilitate dialogue and cooperation with the Genocide Prevention Task Force in the USA and the United Nations.

The Budapest Centre expresses its gratitude to the Task Force, in particular the co-chairs Professor Karen E. Smith and Professor Christoph Meyer, for the preparation of the Report on ‘The EU and the Prevention of Mass Atrocities: An Assessment of Strengths and Weaknesses’.

We commend the officials of the EU institutions, in particular the European External Action Service, and member states' governments and parliaments, as well as other experts, for their indispensable contribution to the work of the Task Force in confidential interviews, discussions and workshops. We wish to continue the constructive dialogue and fruitful cooperation in the forthcoming years.

We thank the Ministry of Foreign Affairs of Hungary, the European Union Institute for Security Studies, the Memorial de la Shoah, the Stiftung Wissenschaft und Politik Berlin, the Institut für Entwicklung und Frieden, the Käte Hamburger Kolleg/Centre for Global Cooperation Research and the International Coalition for the Responsibility to Protect for their assistance in implementing the initiative.

We hope that this Report will serve as a solid basis for discussion among member states, EU officials, civil society and academia and for the construction of a European framework for the prevention of genocide and mass atrocities. The Budapest Centre intends to promote the prevention of genocide and mass atrocities as a priority consideration in Europe and in the foreign policy of the European Union and it is ready to assist in the implementation of the Task Force's recommendations.

FOREWORD BY EMMA BONINO

Mass atrocities often occur at the crossroads between conflict and weak human rights protection; during armed conflict, there can be a sense of ‘anything goes’, particularly among more unscrupulous commanders, which is exacerbated when they also have the understanding that there is likely to be total and utter impunity for the commission of crimes or human rights violations. It is at this moment, when people feel they can get away with whatever they may wish to do, be it for military or personal motivations, that mass atrocities are likely to occur. One thing of which we can be sure, they do not occur by chance and they do not occur as some by-product of a chaotic environment. Conflict, for all its horrors aside from crimes, is not usually an uncontrolled free-for-all: it is directed, it is planned and it is meticulously carried out, including when those in charge decide to implement policies that include mass atrocities.

This may make it sound like there is nothing that can be done to prevent mass atrocities, but there is a great deal that can be done, either to prevent them from arising in the first place, to dampen the impact or bring them to an early end once they have begun. Even a cursory look at recent history demonstrates clearly the impact that early action can have in the prevention of these atrocities, both in terms of strong diplomacy and in terms of military intervention. One case in point is the difference between the situation in Libya, which had uncompromising and early intervention and which for all its challenges has become a fledgling democracy with the promise of a

brighter future, and the situation in Syria, where there has been ineffective and weak intervention if that and which now suffers an ever-rising death toll, horrific human rights violations and an increasingly uncertain future. Many such examples and the complexities involved are cited in this Report: they should give everyone clear pause for thought in considering whether and what kind of action from the EU and its member states can help prevent mass atrocities both within and outside our borders.

The Task Force's Report rightly focuses on the impact that the EU - as a body that is both made up of but exists separately from its member states - can have in the prevention of mass atrocities. The range of recommendations it makes covers the necessary factors in strengthening the EU's role both internally, such as protecting EU officials who raise early warning flags that mass atrocities are about to be committed, and externally, through explicit commitments to prevention and working with other actors to achieve that goal. Mainstreaming the prevention of mass atrocities is a particularly important recommendation made by the Task Force, through its inclusion in action plans, assessments, agreements with third countries and, critically, in ensuring expertise on mass atrocity prevention within delegations and the EEAS. Some fear that mainstreaming can dilute focus on an issue, but mainstreaming the prevention of mass atrocities will increase attention on it and strengthen the EU's capabilities to detect, identify and do whatever it can to stop these atrocities from occurring. Furthermore, while we all hold prevention as the main goal, if that fails - and there are many reasons why it might, most of which are not under the control of the EU - it at least strengthens accountability and the fight against impunity as the next steps when all else has failed.

The work of the Task Force and this Report come at a particularly useful time, when Europe is facing its own crises - not just financial, but also social, cultural and political. Europe is looking inward and rightly so: the warnings in this Report, and the measures suggested to strengthen the EU's capacities to respond when mass atrocities are looming will be beneficial to Europe maintaining order in her own house. At the same time, EU officials and member states would be well reminded to look also outside Europe's borders, where for now at least, the leadership shown by the EU and its member states has the potential to prevent mass atrocities elsewhere. As the Task Force points out, this is not purely altruistic, given the impact mass atrocities have

on a range of matters of self-interest to Europe. Above all, however, the main point of the prevention of mass atrocities is not to protect European interests, but to protect men, women and children wherever they may be and prevent new generations of victims from being created, with the consequent dangers of an endless repetition of increasingly horrific cycles of violence.

This Report can be of immense benefit to officials within the EU and its member states, who should read the Report and act accordingly. Equally, the Report can serve as a useful tool and benchmark for civil society within and outside the European Union that has an interest in preventing mass atrocities wherever they may occur.

Emma Bonino is a member of the Radical Party and co-founder of No Peace Without Justice

FOREWORD BY ELMAR BROK

Every state has a duty to protect its people from every kind of crime against humanity. If the state fails to do so, the UN together with the EU and its member states as a foreign and security policy actor and the world's largest provider of international assistance, have the moral and ethical responsibility to do so, and thus contribute to the prevention of genocide and mass atrocities.

Crimes for ethnic, religious or political reasons are the oldest, but also the cruelest, crimes of mankind. However it was only in 1948 - after the First and Second World Wars, during which millions of people died from genocide and ethnic cleansing - that genocide was defined as a violent felony offence under international law. This first step was the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide by the UN General Assembly.

Today, in a united and peaceful Europe, where citizens live together in solidarity and prosperity, it is difficult to imagine that there are people in certain regions in the world which still suffer from mass atrocities. Therefore the Task Force on the EU Prevention of Mass Atrocities by the Budapest Centre for the International Prevention of Genocide and Mass Atrocities comes at an opportune moment. It proves to be the right way not only to inform the public about these issues but also to improve the EU's capabilities in the prevention of mass atrocities by identifying the problems and weaknesses in this area.

Even if the adoption of the Genocide Convention was an important milestone in fighting genocide, it was often criticised for its detailed provisions on the punishment of those who had already committed genocide but its lack of provisions on the need to act preventively. A duty to prevent was implemented in 2005, when EU member states were at the forefront of the successful diplomacy that resulted in the UN World Summit accepting the responsibility to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In the run-up to the Summit, EU states worked closely with members of different states whose populations were directly affected.

The EU has already demonstrated that it can play a useful role in helping to reduce conflict and protect civilians from mass atrocities around the world. In addition to several EU programmes promoting human rights and conflict prevention, the EU has deployed 16 missions to support national governments and other regional organisations on this issue.

The EU strives to increase its effectiveness in upholding the responsibility to protect populations from mass atrocities. In this regard, the Report provides an important overview of the instruments resulting from the Lisbon Treaty, monitors how to work closely with states to build structures, and shows how to commit to this as a central objective of the CFSP and CSDP.

Elmar Brok, MEP, is Chairman of the Committee on Foreign Affairs of the European Parliament.

FOREWORD BY MARK MALLOCH BROWN

It is striking that in today's interconnected world, where tolerance, integration and understanding are proclaimed globally, we still witness episodes of mass atrocities. These encompass the three core international crimes: genocide, crimes against humanity and war crimes. As we understand much better today under what conditions mass atrocities are perpetrated and how to prevent and stop them, there is no excuse for not improving the EU's capacity to anticipate, identify, prevent and stop these crimes from occurring. The EU has potentially a lot to contribute to achieving this goal either alone or in collaboration with its partners. As other major players such as the United States and regional organisations are investing in preventive and protective capacities, there is a real prospect for ushering in an era where 'Never Again' means exactly that.

The idea of action to prevent genocide, war crimes and crimes against humanity has already been endorsed by the United Nations in the framework of the Responsibility to Protect, which the EU and its member states have fully supported. The fundamental goal of the Report of the Task Force is to produce concrete and practical recommendations to help ensure that these commitments are translated into effective preventive action at both the European and national levels. The Task Force's Report rightly argues that the EU has not only a moral obligation to act, but also a strong self-interest in strengthening its capacities to prevent mass atrocities: they can undermine its development policy, lead to an exodus of large numbers of refugees, destabilise neighbouring countries and regions, and create the

conditions for future conflicts. In addition, failure to take action against mass atrocities undermines the EU's claim to be a principled international actor committed to promoting peace and human rights.

The Report clearly underlines that the EU's potential to fulfil these tasks is better than that of any single EU member state because the EU has access to a broader range of resources sufficiently specific to allow it to assess atrocity risks and forecast mass atrocities quickly and effectively. The EU is also endowed with significant capabilities that could be used for mass atrocity prevention and it should be able to use its economic, legal, humanitarian, financial, civil and military tools in a coherent manner, which requires establishing overarching policy goals for each situation. However, the EU system has not yet developed a 'mass atrocity lens' that would enable it to direct its strengths to help prevent mass atrocities. The Task Force's Report provides specific suggestions and recommendations of how to develop this lens, focusing on where the EU can improve. This will require better coordination and collaboration across the EU and a better assessment of the actual risks of mass atrocities in third countries in its policy planning processes and across the range of its external policies.

In conclusion, the Task Force has highlighted the EU's substantial potential to make a significant contribution to the international prevention of mass atrocities, by improving coordination, intelligence and action on the three areas of warning, prevention and response of mass atrocities. The Report should be read by policy-makers and officials in EU institutions and member states, so that the EU can assume a global leadership position in the field of mass atrocity prevention.

Mark Malloch Brown (Lord Malloch-Brown) is Chairman of Europe, Middle East and Africa Region at FTI Consulting, and previously served as a Minister of State in the UK Foreign and Commonwealth Office and as United Nations Deputy-Secretary General.

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LIST OF ACRONYMS

AMIS	African Union Mission in Sudan
ASEAN	Association of South-East Asian Nations
AU	African Union
CCA	Country Conflict Assessment
CFSP	Common Foreign and Security Policy
CIVCOM	Committee for Civilian Aspects of Crisis Management
COREU	Correspondence Européenne (EU telex system)
CSDP	Common Security and Defence Policy
DCI	Development Cooperation Instrument
DEVCO	Development Cooperation Directorate-General (European Commission)
DRC	Democratic Republic of Congo
EEAS	European External Action Service
EDF	European Development Fund
EGF	European Gendarmerie Force
EIDHR	European Instrument for Democracy and Human Rights
EU	European Union
EUFOR	European Union force
EULEX	European Union Rule of Law mission
EUMS	European Union Military Staff
EUMS INT	EU Military Staff Intelligence Directorate
EWRM	Early Warning Risk Matrix
FAC	Foreign Affairs Council

GDP	Gross Domestic Product
GSP	Generalised System of Preferences
HR	High Representative of the Union for Foreign Affairs and Security Policy
ICC	International Criminal Court
ICTY	International Criminal Tribunal for the Former Yugoslavia
IFS	Instrument for Stability
INTCEN	EU Intelligence Analysis Centre
MARO	Mass Atrocity Response Operations
NATO	North Atlantic Treaty Organisation
NGO	Non-governmental organisation
OSCE	Organisation for Security and Cooperation in Europe
OSINT	Open Source Intelligence
PMG	Political-Military Group
PoC	Protection of Civilians
PSC	Political and Security Committee
PSO	Peace Support Operation
R2P	Responsibility to Protect
RELEX	External Relations Directorate-General (European Commission)
UN	United Nations
US	United States

EXECUTIVE SUMMARY

Mass atrocities are the gravest and most extreme violations of human rights. In the 20th century, tens of millions of people were killed by states and insurgent movements worldwide. The responsibility to stop mass atrocities is not new, yet over the last two decades a significant momentum has emerged around the idea that preventing these crimes from occurring in the first place is infinitely preferable to a situation arising in which they are already being perpetrated. Following the international community's agreement on the responsibility to protect people from genocide, war crimes and crimes against humanity, a series of reforms have been undertaken by the United Nations (UN) and states to turn the responsibility to protect (R2P) into a reality. The Report of the Task Force on the EU Prevention of Mass Atrocities seeks to open a debate about the EU's role in this area. Recent developments in Syria and the Democratic Republic of Congo highlight the need for the EU to improve its capabilities to prevent and respond to mass atrocities.

The EU has an obligation to try to prevent and stop mass atrocities. The moral responsibility for Europeans is to learn lessons not only from the atrocities committed between fellow Europeans identified as enemies, but also from the atrocities which Europeans have committed outside Europe and from the direct or indirect contribution that European states have made to such crimes. Furthermore, mass atrocities are crimes under international law, and the EU and its member states have repeatedly declared their strong support for R2P, which obliges all states to protect not only their

own citizens from these crimes, but also to take appropriate action to prevent and stop them from occurring elsewhere. The EU has a strong self-interest in strengthening its capacities to prevent mass atrocities as they can undermine development policy, lead to an exodus of large numbers of refugees, destabilise neighbouring countries and regions, and create lasting grievances and future conflicts. Failure to take action against mass atrocities undermines the EU's claim to be a principled international actor relying on its credibility to promote norms and strengthen a rule-based international order. As Europe is set to decline against other powers economically and militarily, this credibility is an important asset that can easily be damaged.

This Report assesses the EU's capabilities in the area of mass atrocity prevention and builds the case for the EU to make better use of its tools for warning and responding to mass atrocities in a timely and effective manner. It highlights the EU's potential to contribute substantially to the prevention and halting of mass atrocities. The EU has considerable strengths in each of the three broad areas of warning, prevention and response. At the same time, the Task Force has identified four core problems impeding the ability of the EU and its member states to prevent mass atrocities:

- ▶ Mass atrocity prevention is rarely mentioned in core EU documents and by EU actors, despite EU commitments to protect and promote human rights and despite its support for R2P.
- ▶ Integrating a preventive mindset into EU foreign policy-making is a challenge, given the dominant focus on crisis management, especially within the Council.
- ▶ Efforts to strengthen conflict prevention and human rights policies need to include a distinct mass atrocity lens in intelligence, policy-making and planning capacities.
- ▶ There are problems of coordination within the EU, as well as an underused potential for collaboration with local and international partners.

To address these four core problems and subsidiary shortcomings identified in the chapters below, the Task Force puts forward the following recommendations:

- 1. The EU should make explicit its commitment to preventing mass atrocities** and thus match the strong normative commitment it has made to promoting human rights and preventing conflict. This could be achieved by the following steps: the European Council should include a clear reference to mass atrocities as a threat to the EU's values and norms in the next update of the European Security Strategy; the Foreign Affairs Council and the European External Action Service (EEAS) should incorporate 'prevention of mass atrocities' in existing strategies for human rights and conflict prevention; individual European party families should pass a resolution on this theme and start to build a majority within the European Parliament for a parliamentary resolution; national parliamentarians working on this topic in relevant committees across Europe should build a common platform to elevate mass atrocity prevention vis-à-vis their own national governments and increase visibility in the national news media through hearings and reports.
- 2. The EU should cultivate expertise in the area of mass atrocity prevention and warning** to enable it to prioritise effectively and focus resources and political attention on the countries and regions where these are most needed. This could be achieved through mapping and cultivating country/regional expertise across the EU, creating a dedicated career track for country experts and running training programmes aimed at improving analytical as well as warning skills. The training needs to be underpinned by new procedures for fast-tracking warnings, opportunities for expressing judgements about unexpected developments and strengthened protection for officials who articulate politically inconvenient warnings.
- 3. The EU's warning-response system should be strengthened to improve early action against long and short-term mass atrocity risks.** This could be achieved by appointing a Special Adviser closely tied to existing structures which are geared towards conflict prevention, but with a mandate to provide early warning of possible mass atrocities and to make recommendations for early action. The mandates of EU working groups and the Political and Security Committee (PSC) should be revisited to create greater and more regular space for decision-making on preventive action, whilst also devolving further powers for response to

warnings downwards to heads of EU delegations and, in some cases, EU Special Representatives. The EEAS and Council should also review the existing warning systems and assessment products which are already present within EU member states.

- 4. The EU should build on its strengths in structural and direct prevention by employing a mass atrocity lens across the spectrum of relevant activities, including its trade and development policies.** This entails: systematically assessing risk factors and relevant measures in Country and Regional Strategy Papers; making the prevention of mass atrocities a standard agenda item in the EU's dialogues with third countries most at risk; including democracy, good governance and mass atrocity prevention in the EU's criteria for arms exports, and applying them more coherently; strengthening its capacity to engage in mediation; and strengthening the coordination structures between DG DEVCO and the EEAS.
- 5. The EU's capabilities to react quickly to mass atrocities should be improved** by better contingency planning for situations of imminent and/or ongoing mass atrocities which have not been identified earlier or where structural prevention has failed. Internal EU bodies such as EUMS, PMG and CIVCOM should be tasked to develop relevant scenarios and concepts, which should be integrated into comprehensive regional strategies. Adequate structures and resources for the planning and operational coordination of missions are needed. The EU should develop substantial 'strong police' capabilities. The financing principle for CSDP needs to be revised to remove financial disincentives for member states to contribute their assets to operations. One of the battle groups on stand-by should be explicitly equipped and trained in advance at national or cross-national level for mass atrocity response operations. The EU should work with NATO to facilitate the process of developing doctrine, strategy, policy and training for such operations.
- 6. The EU should cooperate more closely with other actors to prevent mass atrocities.** These include: support for community-based early warning and response in areas with high inter-ethnic tension; expanding support for the building of civilian conflict prevention and peace-building capacities of other regional organisations;

better cooperation with academics and non-state actors to develop methodologies and complement institutional and governmental efforts; closer cooperation with the UN Office of the Special Adviser on the Prevention of Genocide and the Special Adviser on the Responsibility to Protect; and, finally, a more active contribution to UN discussions on R2P, mainly by proposing specific modalities of implementation that are acceptable to the international community.

INTRODUCTION

Mass atrocities are the gravest and most extreme violations of human rights. In the 20th century, tens of millions of people were killed by states and insurgent movements worldwide. Some cases are well known, such as the Holocaust in Europe and the one hundred days of rampage killings in Rwanda in 1994, but others are less known, such as the atrocities committed against Mayan Indians in Guatemala in 1982-3. Mass atrocities include cases of genocide and other forms of deadly violence targeted at particular groups, but also acts considered crimes against humanity and war crimes. The legal, moral and/or political responsibility to prevent and stop mass atrocities is not new, yet over the last two decades a significant momentum has emerged around the idea that preventing these crimes from occurring in the first place is infinitely preferable to a situation arising in which they are already being perpetrated.

In 2005, the international community accepted the ‘responsibility to protect’ (R2P).¹ This provides an approach for responding to mass atrocities, based on three pillars: 1) states have the responsibility to protect their populations from genocide, war crimes, crimes against humanity and ethnic cleansing; 2) the international community has the responsibility to help states do so; and 3) the international community has a responsibility to use appropriate diplomatic, humanitarian and other means to protect populations from these crimes, but if a state is manifestly failing to protect its population, the

1. United Nations General Assembly, ‘Resolution 60/1: 2005 World Summit Outcome’, paragraphs 138 and 139.

international community must be prepared to take collective action to do so in accordance with the UN Charter (thus the UN Security Council must authorise any use of force). In the case of international action, this would not just be grounded on the international obligation to prevent genocide and protect human rights, but also on the common interest of states in avoiding the impact of mass atrocities on regional and international peace and security, and on economic development in the local area and region. In these situations, states may agree on a continuum of steps to address the main causes of violence against people through the framework of the UN and/or regional organisations, as appropriate. This could include action against the will of the respective government and with military means.

As the international community has converged and agreed on the responsibility to protect, a series of reforms have been undertaken by international organisations as well as states to turn the principle into a reality. The United Nations recently merged a new Office of the Adviser on the Responsibility to Protect with the Office of the Special Adviser on the Prevention of Genocide. Similarly, the US administration has taken a number of significant steps to strengthen its capacities, including the creation of an Atrocities Prevention Board² and the design of military operations to respond to mass atrocities (MARO). With this Report, the Task Force on the EU Prevention of Mass Atrocities seeks to open a debate about the EU's role in the prevention of mass atrocities. Recent developments in Syria and the Democratic Republic of Congo - where mass atrocities have taken place - highlight the need for a better EU strategy of prevention and response.

The EU has an obligation to try to prevent and stop mass atrocities. The moral responsibility for Europeans is to learn lessons not only from the atrocities committed against fellow Europeans who were identified as target groups because of their religion (for example, Jews), ethnicity (such as Bosniaks) or class (for example, Kulaks), but also from the atrocities that they committed outside Europe (against colonial populations) and from the contribution that European states made to such crimes by shielding or supporting perpetrators or turning a blind eye. Legally, mass atrocities are

2. See Preventing Genocide - A Blueprint for U.S. Policymakers, prepared by the U.S. Genocide Prevention Task Force (United State Holocaust Memorial Museum, The American Academy of Diplomacy, the United States Institute of Peace, 2008); Presidential Study Directive on Preventing Mass Atrocities, PSD-10, 4 August 2011.

crimes under international law, and treaty and customary international law indicates that states have an obligation to prevent them. Furthermore, the EU member states have repeatedly declared their strong support for R2P.

In addition to the moral and legal responsibilities, the EU should also have a strong self interest in strengthening its capacity to prevent mass atrocities. These crimes can destroy the progress and prospects of European and national development policy, lead to an exodus of large numbers of refugees, destabilise neighbouring countries and regions with the associated economic, political and security risks, and create lasting grievances and hatreds that can lead to the re-emergence of conflict in the future. Failure to prevent, stop or punish the perpetrators of mass atrocities undermines the international normative and legal framework for protecting human rights - the strengthening of which all EU member states and the EU have repeatedly declared they support. Failure to take action against mass atrocities also undermines the EU's claim to be a 'normative power' - a community of states which relies on the force of the better argument to a larger degree than powerful states. As Europe is set to decline economically and militarily against other powers, its credibility is an important asset. It can be easily damaged, as happened after Europe's hesitant response to the mass atrocities unfolding in the former Yugoslavia in the 1990s.

It is true that the EU has already committed itself to R2P, but there has been little reflection on how it can contribute to achieving this objective. Beyond the endorsement of R2P within the context of the UN, there are only a few references to its operationalisation in relevant EU and national policy documents. It is also true that the EU has embraced the goals of conflict prevention and human rights promotion in its governing treaties as well as in a number of key policy documents.³ The Treaty of Lisbon, for example, states that the 'Union shall ... preserve peace, prevent conflicts

3. European Council of Gothenburg, 'EU Programme for the Prevention of Violent Conflicts', 15-16 June 2001; European Commission, 'Communication on Conflict Prevention', COM (2001) 211 final, 11 April 2001; European Council, 'A Secure Europe in a Better World: European Security Strategy', Brussels, 12 December 2003; European Council, 'Report on the Implementation of the European Security Strategy: Providing Security in a Changing World', Brussels, 11 December 2008; Council of the EU, 'Concept on Strengthening EU Mediation and Dialogue Capacities', doc. 15779/09, 10 November 2009; Council of the EU, 'Comprehensive approach to the EU implementation of the United Nations Security Council Resolutions 1325 and 1820 on women, peace and security', doc 15671/08, 1 December 2008; European Commission, 'Towards an EU Response to Situations of Fragility', COM (2007) 643 final, 25 October 2008; Council of the European Union, 'EU Strategic Framework and Action Plan on Human Rights and Democracy', document no. 11855/12, 25 June 2012.

and strengthen international security' (article 10a) and the Foreign Affairs Council concluded in June 2011 that 'preventing conflicts and relapses into conflict ... is therefore a primary objective of the EU's external action.'⁴ If the EU succeeds in making this aspiration a reality, it will also improve some of its capacities for stopping mass atrocities. But focusing on conflict prevention alone will not be sufficient for at least four reasons: (1) mass atrocities are always unlawful and need to be prevented, whereas legitimate reasons and circumstances exist for why arms are taken up within and between states; (2) mass atrocities can occur outside of times of violent armed conflict or after fighting has ended, so mass atrocity prevention may be needed even in situations requiring no conflict prevention; (3) even when conflict prevention has failed, it is not too late to focus on preventing mass atrocities; and (4) forecasting, detecting, preventing and stopping these crimes requires specific capacities and approaches that are different from the generic mapping and prevention of political instability or violent conflict as it is commonly understood.

As a result, a 'mass atrocity lens' is needed to enable better prevention and response in these extreme situations. Using such a lens means that when policy-makers and officials are assessing and analysing situations, discussing policy options and implementing policies, the risk that mass atrocities could occur is part of those processes. If it is not, then the response to any outbreak of mass atrocities could not only be inadequate but also inappropriate. For example, on 16/17 May 1994, the Council of the EU issued a declaration on Rwanda which firstly appealed for an end to the genocide taking place in the country, but then urged all parties to negotiate an end to the 'conflict'. Had a mass atrocity lens been used, then the EU might well have focused more on steps that could be taken to end the genocide itself, such as, for a start, naming and condemning the perpetrators of the genocide.

There can be no doubt that the EU has the potential to make a major contribution in this area. The creation of the EEAS and the double-hatted High Representative for Foreign Affairs and Security Policy augment the EU's potential to become more active, more coherent and more effective in this crucial domain. However, this huge potential to make a difference

4. Council of the European Union, Conclusions of the Foreign Affairs Council, document no. 11824/11, 20 June 2011, p. 26.

is not yet fully realised. The Task Force argues that this could be rectified at little extra cost by incorporating a mass atrocity lens into the policy-making process and adjusting some of its existing capabilities to make them suitable for the prevention and stopping of these crimes. The Report does not recommend duplicating procedures, creating new institutions or increasing overall spending.

This Report assesses the EU's capabilities in the area of mass atrocity prevention and builds the case for the EU to make better use of its tools for warning and responding to mass atrocities in a timely and effective manner. Over the past year, the members of the Task Force has reviewed the relevant international and EU documents and best practices, interviewed dozens of officials in the EU institutions and in the capitals of several EU member states, and held three workshops with representatives of the EU, EU member states, and civil society organisations.

The Report consists of three main chapters, which assess the EU's capabilities in three areas (early warning, prevention, and response) and closes with a series of recommendations to strengthen those capabilities. The rest of this introduction defines the term 'mass atrocities', and summarises key scholarly works regarding their causes. The Task Force has also prepared three state-of-the-art papers to elaborate on the lessons learnt and best practices emerging from scholarly research in this area.⁵

KEY QUESTIONS ABOUT MASS ATROCITIES

What are mass atrocities?

Mass atrocities entail extreme violence - such as killing, rape or maiming - inflicted on large numbers of people by either state or non-state actors. Mass atrocities encompass elements of three core international crimes: genocide, crimes against humanity and war crimes. The first two are crimes under international law regardless of whether they occur during times of war or peace or whether the perpetrators are rebel groups or governments.⁶

5. The papers are available on the Task Force's website: www.massatrocities.eu

6. International documents defining mass atrocity crimes include: Convention on the Punishment and Prevention of the Crime of Genocide (9 December 1948); Rome Statute of the International Criminal Court (17 July 1998); and United Nations General Assembly, 'Resolution 60/1: 2005 World Summit Outcome' (which lays out the principle of the responsibility to protect).

This distinguishes them from violent conflict both within and between states which can be legal and legitimate under specific circumstances. Mass atrocities include exceptionally high levels of violence targeted at specific groups of people sharing various kinds of characteristics in the eyes of the perpetrators, sometimes labelled as genocide, classicide, politicide or similarly grievous crimes against humanity. The term genocide specifically identifies violence and other acts aimed at destroying an ethnic, religious, national or racial group.

While definitions of mass atrocities and genocide used in empirical research differ, researchers count up to 100 incidences of mass atrocities occurring between 1945 and 2010, amounting to an overall death toll of more than 19 million civilians, based on the lowest estimate for each case. Other estimates count fewer episodes, but reach a civilian death toll of 22 million. Leading scholars of genocide work with somewhat varying definitions and thresholds, but tend to identify less than a dozen cases in the 20th century with the most frequently studied ones being the Holocaust, Armenia, Cambodia, Bosnia, Rwanda, and the former Soviet Union's Kulaks.

Who is responsible for committing mass atrocities?

Non-state armed groups, rather than regular forces, are responsible for a substantial proportion of the intentional killings of civilians, even if these actions may be ultimately attributable to different failures of state authorities. For the period 1989-2004 (and excluding Rwanda) two thirds of cases were attributable to such groups, whereas in the early parts of the 20th century, regular state forces tended to be the main aggressors. Mass atrocities can take the form of state-directed suppression by non-democratic regimes against political opponents or marginalised ethnic groups; communal violence, often along ethnic or religious lines, organised by local or national leaders and triggered by particular events; or post-war retribution to avenge killings or specific atrocities committed during the armed conflict. They may be perpetrated for a combination of political reasons, such as pre-empting perceived threats.

Do all mass atrocities occur during wars?

The majority of cases of mass atrocities have occurred during periods of armed conflict and between a third and a quarter have taken place outside

of armed conflict. This proportion is not static but can vary over time, with the trend since the 1980s suggesting a decline in the number of cases of mass atrocities outside of war to around 15 per cent currently. Examples of mass atrocities occurring outside of war include the Cambodian genocide in the late 1970s, large-scale killings and disappearances in Argentina, Chile and elsewhere in Latin America in the 1980s, the massacres in Zimbabwe in the 1980s, the killings in East Timor in 1999, the Andijan massacre in Uzbekistan in 2005, and the violence targeted at particular groups that followed elections in Kenya in 2007. So while peacetime cases of mass atrocities are less frequent, they have nevertheless occurred frequently enough, and sadly received significant attention only after large numbers of people had been killed. Mass atrocities should therefore be regarded as a distinct phenomenon and not just as a subset of violent conflict or crisis.

What factors make the occurrence of mass atrocities more likely?

Mass atrocities targeting particular groups are more likely when a combination of factors is present; some of them may change over a shorter period of time, whereas others may have a more structural character. They are more likely:

- ▶ during periods of regime transition and political instability, including during and following periods of violent conflict;
- ▶ as moments of particular vulnerability are approaching (elections, for example);
- ▶ when perceptions that a given group poses an existential threat to another group are spreading and intensifying within a society, for instance, through dehumanising particular groups in official rhetoric and mass media;
- ▶ when key actors hold a sufficiently widespread radical/exclusionary ideology aimed at creating ethnic, religious or political purity within a given geographic territory;
- ▶ when potential perpetrators of mass atrocities have the capacity to conduct such a campaign, including access to arms and a degree of practical or political support from neighbouring states or international actors, such as states with colonial ties or specific interests in a country;

- ▶ where mass atrocities have been committed in the past, and particularly where perpetrators have not been held to account for their crimes;
- ▶ where there are high and rising human rights violations committed against members of a group;
- ▶ where there are low levels of economic development (as seen, for example, in high infant mortality), especially where this is combined with group-based inequality;
- ▶ where there are low levels of economic interdependence and international interaction (especially trade).

Hybrid regimes and full autocracies are more prone to committing mass atrocities than full democracies. Among hybrid regimes, partial democracies with particularistic ethnic-shaped political competition, or religious or regional agendas (factionalism) are particularly vulnerable, as was the case in Rwanda in 1994 and Kenya in 2008, for example.

Are there specific causes for genocide?

Genocide, as a very specific and extreme manifestation of mass atrocities, is associated with the factors mentioned above although their presence does not provide a sufficient explanation for why genocides occur. They usually evolve out of a complex and relatively rare set of circumstances in which the options of the eventual perpetrators become increasingly more restricted because of both domestic and international factors. Although some genocides may be planned far in advance, others evolve out of dynamics in which the eventual perpetrators feel increasingly threatened about their own survival during periods of transition and instability.

Can mass atrocities be prevented?

Because there is growing understanding of the kinds of factors that increase the risk that mass atrocities, and in particular the mass killing of civilians, will be perpetrated, it is possible to design strategies and policies to address those risks. Similarly, our understanding of what capacities are needed is evolving all the time. At the same time, not all mass atrocities can be prevented: even with good policies, outsiders can have a limited impact ‘on the ground’, and even good policies may not deter perpetrators who are

intent on carrying out mass atrocities to serve other ends. Furthermore, it is difficult to ‘prove’ that mass atrocities have been prevented, although several recent cases illustrate that early responses do seem to make a difference: international diplomatic and economic intervention seems to have limited the extent of communal violence in Kenya in 2008, and Kyrgyzstan in 2010, for example.

1. IDENTIFYING AND WARNING ABOUT MASS ATROCITIES WHERE DOES THE EU STAND AND HOW CAN IT IMPROVE?

Timely, relevant and accurate knowledge is central to the prevention of mass atrocities by the EU, or indeed by any other international actor. Risk assessments about the situation in specific countries or regions can help to better focus international resources and facilitate longer-term preventive strategies. Early or even late warning about a growing likelihood of grave crimes occurring can alert local community leaders and/or international decision-makers to the need and opportunity for preventive or mitigating action. Up-to-date knowledge (or intelligence) regarding the intensity, geographic location and trajectory of mass atrocities is essential for identifying perpetrators and potential victims, establishing and guiding people towards protection zones or corridors and, if necessary, using military force to effectively reduce perpetrators' willingness and capacity to kill. Conversely, ignorance, secrecy, confusion and surprise benefit perpetrators of mass atrocities by allowing their plans and actions to remain undisturbed.

However, achieving timeliness and accuracy in warnings is more difficult than is currently assumed. Hindsight bias in assessments of past humanitarian catastrophes has led to the assumption that there is no problem of warning, only a problem of political will. On the contrary, achieving high accuracy in

early warning is difficult and requires the combination of quantitative and qualitative approaches, each of them relying on country experts to varying degrees. Even if scientific progress in forecasting violence has outpaced decision-makers' confidence in such methods, the most common failure in warning-response is due to a lack of understanding of how warning sources and recipients relate to each other. For instance, many potential warners within civil society organisations, and especially within governments, refrain from warning or hedge any warning out of fear of how it could be received and the damage it may do to their reputation. If warnings are communicated by sources, the credibility of the source in the eyes of the decision-maker is crucial to whether they are accepted and prioritised. This means that sources that are seen as 'alarmist' or as afflicted by party-political or national biases will struggle to be heard, regardless of their objective expertise or the evidence contained in the warning. Warning-response processes need to be configured to take these political and social realities into account, otherwise much energy will be expended on improving the analytical accuracy of products with little impact.

Effective warning response involves interlinked tasks of intelligence production, communication and prioritisation followed by political and operational mobilisation to act. The basic principle for designing warning response systems is the subsidiarity principle, that is, both warners and responders should be from the country concerned. This is for reasons of legitimacy and also because they can act earlier and better than outside actors. However, there will always be cases when the relevant local actors lack either the will or the capacity to respond to warnings and sometimes an outsider can see mounting risks more clearly than someone from within the region. In addition, early warning when intentionally relayed in public to the countries concerned can in some circumstances be counter-productive and increase tensions on the ground or accelerate violence. So Western states and international organisations have an important role to play in helping to build up local capacity and to add a different perspective; local actors cannot or will not always see clearly growing dangers for themselves because they lack access to certain intelligence and face psychological resistance and political propaganda from conflict actors. For the EU to make its full contribution to effective warning response, the following preconditions have to be met:

- ▶ The EU would have to be able to generate timely, relevant and accurate warnings on the basis of strong capacities for information collection and analysis. This requires above all a presence on the ground in the countries and regions potentially affected as well as high quality country expertise to adequately interpret warning signals and come up with granular, time-sensitive qualitative analysis. For warnings to be relevant to potential responders, country expertise needs to be coupled with an understanding of decision-makers' thinking and the instruments they have.
- ▶ The EU's organisational culture would need to value and become sufficiently responsive to expertise, particularly when it challenges conventional wisdoms and is politically inconvenient. Experts need to feel empowered to take risks in making and communicating warning judgements, while decision-makers need to feel confident to reach down and across organisational hierarchies to where expertise is located, rather than stifling and diluting it through rigid line-management rules and reporting procedures.
- ▶ The EU's decision-making mechanisms require clarity about the criteria used to decide which situations at risk are being prioritised in order to enable decisions about whether, when and how to act in a timely and appropriate fashion. It is also important that planning and decision-making rules devolve authority downwards to prevent bottlenecks and delays which can typically arise in large and complex institutions.
- ▶ The EU's leadership would have to express a clear interest in warnings about mass atrocities and incentivise learning from warnings in order to facilitate early action. This is important to avoid the common problem of preventive action being constantly crowded out by demands on institutional resources from the management of immediate or current crises.

1.1 An Assessment of EU Capabilities for Early Warning

1.1.1 Access to reliable and specific information

The creation of the EEAS and related foreign affairs structures after the Lisbon Treaty has increased the EU's potential to perform better than single

EU member states in the area of strategic notice and forecasting of mass atrocities. It has access to a range of sources to gather sufficiently specific information about atrocity risks and dynamics. In particular, its network of 141 EU delegations (including those at international organisations) is a formidable source of information from the ground. Moreover, the EU has various kinds of field missions in different countries (humanitarian assistance, civilian or military missions), Special Representatives for particular regions (and recently one for human rights) as well as some technical capabilities for gathering and analysing intelligence, such as the EU satellite centre and systems for monitoring and analysing reports from various kinds of open sources, including international and local news media.

The EEAS has also gained the technical expertise of some countries and regions through the recruitment process of diplomats from member states. These make up a third of all EEAS personnel, although it is not clear yet whether the influx of national diplomats has noticeably strengthened the availability of country expertise. Such expertise would be particularly important for personnel in EU delegations, but resources vary substantially between delegations and many of the EU delegation staff are not yet adequately trained in the analysis of conflict more generally, let alone in recognising the factors and dynamics leading to genocide. A significant amount of staff time is taken up by the management of development/aid programmes so that less is available for the kind of research and analysis needed for high quality warning. In order to make warnings actionable, expertise is needed about the use of different types of preventive instruments but this expertise is not available in all delegations, in particular regarding the use of military assets to stop escalating violence against civilians, as delegations do not include military personnel. The EU currently invests in training activities for officials in Brussels and the delegations in conflict analysis, but country expertise takes many years to acquire and cultivate, and even though it may exist in some member states, it is not yet systematically used for the purpose of EU foreign policy. The overarching problem, which is not unique to the EU, is that career incentives in foreign services centre on competence in managing processes or being an expert on a policy or issue, rather than a country or region.

Opportunities and limitations also characterise the EU's access to member states' or other actors' intelligence. In fact, in addition to its own sources,

the EU (and EEAS) has access to the diplomatic reporting of member states through various channels such as the COREU system, exchange of information within meetings of Council working groups and the PSC ambassadors. The EU Intelligence Analysis Centre (INTCEN) draws on various openly available sources such as those provided by NGOs, think-tanks, universities or the news media, whereas the Intelligence Directorate of the EU Military Staff (EUMS INT) can also draw on intelligence provided by national defence intelligence organisations. This means the EU does not have access to raw or primary intelligence, but rather only to finished assessments from member states, although these can provide access to a substantial part of member states' collective insights. The challenge to be addressed here is not only that some member states are more willing to share intelligence than others, but also that even those who do share in principle sometimes restrict access when particular countries are concerned or particular situations arise. As a result, the EU encounters problems in assessing the reliability of information as well as with the quantity of the information supply, particularly in situations of crisis.

The dependence of EU institutions on information provided by member states is particularly pronounced in the area of human intelligence, such as that produced by undercover agents on the ground. This is important when trying to overcome secrecy and deception and to gauge the intentions of third country governments, paramilitary groups or the leadership of particular political or religious movements. The EU staff does not have a legal basis for such activity and is unlikely to receive these competences from member states. There are also good reasons for the EU to stay out of this field of activity for the foreseeable future, given the suspicions they may provoke among third countries and the elevated risks of leaking within a multinational organisation. However, EU delegation personnel are not precluded from conducting non-clandestine research or fact-finding missions and EU military missions do have reconnaissance capacities attached to them, although civilian missions are often constrained in what information they can gather. Overall, whilst the access to reliable information for risk assessment and forecasting is one of the EU's relative strengths, the EU's access to sources is most constrained when it comes to current intelligence about fast-moving situations on the ground, like those with the potential to escalate into mass atrocities.

1.1.2 Analysing information

The EU system already has evolving capacities for analysing security risks and issuing high-quality assessments. At the same time, it has not yet developed the appropriate tools for high-quality risk assessment and warning about mass atrocities specifically. The mass atrocity lens needed to measure risks and anticipate dangerous dynamics is out of focus. Currently, none of the relevant geographical and horizontal units of the EEAS undertakes specific assessments about the near-term risk of mass atrocities, although officials argue that human and minority rights monitoring is part and parcel of their risk assessments. EU INTCEN does not currently look out for mass atrocities in its warning, given that it is not explicitly mandated to do so systematically but only in exceptional cases such as Libya. Even the six-monthly global overview, for example, which is produced jointly by EU INTCEN and EUMS-INT classifies countries (currently 67) on the basis of the state fragility and the likelihood of instability, but mass atrocities are not a threat to be monitored. Though state failure can create an environment for mass atrocities, they can also be committed by stable authoritarian regimes. The lack of an explicit mandate is particularly problematic in the perception of some EU intelligence producers because talking about these risks is seen as crossing the line towards political advocacy, whereas focusing the analysis on violent conflict and conventional security risks is seen as ‘safer’.

With INTCEN and the Crisis Response Unit (within the EEAS) focused on the shorter-term and fact-based assessment, there is also a gap in theory-grounded forecasting of mass atrocity risks over the medium to long term. However, steps are currently being taken to remedy this situation at least partly. The EEAS’ Division for Conflict Prevention, Peace-building and Mediation Instruments is currently developing two new tools with the aim of strengthening the EU’s ability to anticipate and respond to violent conflict: an Early Warning Risk Matrix (EWRM) and a Country Conflict Assessment (CCA) Format. The former is meant as a light-touch tool to visualise the risk of violent conflict through presenting assessments at three levels: 1) long-term vulnerabilities (‘root causes’), 2) medium-term issues (‘proximate causes’), and 3) potential real-time triggers. It is not intended to replace expert analysis, but aims to better monitor medium and longer-term trends and developments in conflict risk areas through an

effective use of open-source intelligence (OSINT), combined with reporting from EU delegations. It is proposed that this would also cover some of the indicators related to mass atrocities and would be updated bi-annually. The second tool being developed, the CCA, leaves some room to forecasting and warning about mass atrocities. The CCA is the product of a review and update of an existing tool developed more than ten years ago by DG RELEX and it is recommended that EU delegation staff fill it in using the sources mentioned above. It identifies ten problem areas, which include the risk of mass atrocities. For each of them, the delegation has to prepare a series of statements to then present a 'strong statement' for each country, which feeds into the EWRM and can start a discussion process.

The development of EWRM and an updated CCA should be welcomed as they are tools with the potential to trigger in-depth analysis on situations at risk. They thus provide a stronger basis for better informed decision-making and holding decision-makers to account for acting or not acting on medium-term warnings. However, the historical problem with the EU's dedicated longer-term warning products has been that they were not widely known and were not considered very helpful by end-users. It is conceivable that these new and revised analytical products will gain higher recognition, credibility and, ultimately, impact but there are also some significant obstacles on the way:

First, the risk of adopting an approach based on indicators and checklists is that staff who are providing the assessments underpinning the indicators may not have the necessary in-depth country expertise to do so. This can be a problem in some cases. Even when country expertise is present in delegations, field missions or in Brussels, analytical tools can be used too rigidly so that they prevent these experts from questioning key assumptions underlying the models and spot genuinely surprising developments that are typically not picked up by existing indicators.

Second, even if risk assessments are as accurate as possible, they may fail if they are not being perceived as relevant by decision-makers. Research has shown that policy communities and decision-makers tend to value highly granular, qualitative and in-depth analysis and are sceptical about the utility of watch-lists. They also value intelligence which shows awareness of feasible options that are available to them. The danger is that too many

resources go into the analysis of mass atrocity risks and too little into efforts to improve policy planning and dialogue with the relevant decision-makers.

1.1.3 Organisational culture, warning and follow-up

One of the principal concerns is how early warning signals can be wired into EU decision-making mechanisms to trigger timely and, if necessary, urgent actions and address the challenges from a long-term perspective. Despite the developments over the last few years, the present practice and preventive culture clearly need improvement. The current format and content of global overviews which are prepared and submitted each semester to the Intelligence Board and, if the board judges it to be necessary, the High Representative (HR), may not trigger adequate follow up to address risks of mass atrocities as they do not reflect on aspects of mass atrocities or contain recommendations.

INTCEN has developed a direct communication channel with the High Representative through a delegated briefer and regular contacts, but the emerging organisational culture of the EEAS is not very conducive to fast-tracking warnings from country experts and geographical desks up to more senior decision-makers. The emphasis on seniority and line-management structures in the communication of intelligence hinders the timely communication and processing of warning, but also harms its credibility through the dilution of knowledge. This is a common problem for national foreign affairs ministries as well, but they can learn from organisations dealing with considerable risks such as fire services, aircraft carriers and power plants. These provide special procedures for the urgent communication and use of expertise wherever it is located in the organisation. In some cases, the ideal recipient of warnings should not be the top of the EEAS hierarchy, but local actors with an interest in and capacity for action. Acting without explicit authorisation from ‘Brussels’ is no doubt a difficult area for heads of EU delegations, but research has identified examples where individual ambassadors or groups of ambassadors of Western states have the capacity to influence local leaders in impending crises.

The follow-up is easier if EU delegations work in the field and have the necessary expertise to identify mass atrocity and conflict risks, but it is also necessary that all delegations clearly understand that they are expected to play a warning role and that warnings will be welcome, even and especially if they are ‘inconvenient’. There is considerable variation between delegations

in how they see their role. While some delegations occasionally highlight risks, research has revealed instances of delegations thinking that they have communicated a warning, while this was not perceived as such in Brussels due to a lack of common understanding about the communication process.

1.1.4 Specific prioritisation and prevention of mass atrocities

Current strategic documents do not explicitly mention mass atrocities, but officials have highlighted that mass atrocity prevention is seen as a part of a) human rights promotion/protection and b) conflict prevention, both of which are mentioned in the Lisbon Treaty (article 21) as the legal basis for EU action in external affairs. ‘Acting early’ is a stated EU priority, according to the 2003 European Security Strategy and particularly its Implementation Report/Update of 2008, the Council Conclusions of June 2011 on conflict prevention and the High Representative’s repeated declarations about the importance of prevention as a key objective for the EEAS. It is, however, widely acknowledged that the EU still has a reactive, rather than preventive, attitude and tends to react only to crisis situations on the basis of late signals. Resources and attention have primarily been given in the early years of the EEAS to divisions focused on crisis management and response, especially the Crisis Response Unit. Given the problems associated with instilling a general preventive mindset across the EU, the obstacles to addressing mass atrocity prevention as a priority distinct from conflict prevention persist.

Member states have contributed to this focus on crisis response by emphasising the need for prevention while de facto using the Foreign Affairs Council (FAC) primarily to discuss current or immediate crises. The current mandate of the Political and Security Committee (PSC) is limiting the role it can play in discussing emerging problems and framing medium-term preventive policies. It partly explains why the PSC has concentrated its attention on the preparation for and response to imminent or current crises. The Sahel region could be one example of a case raised briefly three years ago but then not prioritised for preventive action. As current or immediate crises tend to monopolise the schedule of the PSC or the FAC, the EU’s decision-making system struggles to create and ring-fence the space for member state representatives to discuss upcoming problems systematically and at regular intervals, including mounting risks relating to mass atrocities. Having said this, it is an encouraging sign that conflict

prevention has recently been discussed in the PSC as a follow-up to the FAC conclusions of June 2011. The underlying issue is that member states differ in their capacities, available capabilities, the emphasis that they place on prevention in general and mass atrocities in particular, and whether they think the EU should play a leading role in this area in the first place. Some member states believe the EU should develop its comprehensive approach and implement it globally, whereas others see the EU as being a specialist provider of certain services in particular thematic areas. It is also a positive sign that the EU has recognised the challenges of mobilising for prevention and is instigating a conflict early warning - early action system, currently being piloted in the Sahel. The new system is intended to identify countries at risk of violent conflict and to mobilise action across EU institutions to prevent it. If the new system works, it could make a contribution to EU efforts to prevent mass atrocities.

As the EU's resources to prevent and respond are limited, it needs to make a judgement about which situations are potentially the most grave and where it could make the biggest difference, either alone or in close collaboration with other organisations such as the Organisation for Security and Cooperation in Europe (OSCE) or the African Union. From that point of view, the improvement of preventive activities as a response to the most extreme risks would clearly matter. Unfortunately, decisions about which cases to prioritise are hampered by a lack of clarity about the EU's interests in thematic and geographic terms. Within the EEAS structures informal understanding exists about which types of crises in which parts of the world member states would care most about, but such an informal understanding is not optimal from the perspective of reaching prioritisation decisions.

1.2 Conclusions

The post-Lisbon EU has the potential to become the leading provider of medium and long-term warning intelligence on mass atrocities given its network of delegations, human resources and evolving capacities for the analysis of open source information and processed intelligence provided by member states. However, near-term mass atrocity risks are currently not explicitly monitored across all countries, while capabilities for the assessment of instability and conflict risks are evolving. Whether this

will also result in reliable measurements of the risk of mass atrocities is currently not clear. The area in need of most improvement is, however, not the analytical side, but the effective communication of intelligence and the ability of the policy planning and decision-making structures to process them quickly enough. The EU is currently too slow to respond as quickly as needed to warning intelligence, partly because it is preoccupied with the management of immediate and current crises.

2. PREVENTING MASS ATROCITIES WHERE DOES THE EU STAND AND HOW CAN IT IMPROVE?

This chapter considers measures that the EU can take to try to prevent mass atrocities in the long and short-term. Prevention spans a continuum from situations where at least some of the risk factors of genocide and other mass atrocities are identifiable, to situations where there is a growing probability that mass atrocities will be perpetrated imminently or when violence has already broken out but has not spread widely. A long-term, structural prevention strategy addresses the ‘root causes’ of mass atrocities; it involves, fundamentally, the systematic incorporation of various elements related to mass atrocity prevention into relations with countries where there are identifiable risk factors. A short-term, direct prevention strategy, instead, aims to respond quickly and decisively to warnings about rapidly growing risks and first indications of mass atrocities. Both strategies rely on similar policy instruments, but with a different degree of intensity.

2.1 Structural prevention

Structural prevention is widely considered ‘cheap’ in that it is not only cheaper than responding to mass atrocities once they are occurring, but it may also involve amending or tweaking existing policies and programmes that aim to foster human rights or prevent conflict. Given the difficulty of

proving that mass atrocities are actually being averted, however, it can be hard to justify taking the steps needed to adjust existing policies. Indeed, there is some scepticism among EU and member state officials that structural measures can actually be targeted at preventing mass atrocities. There is also, however, support from other officials of the EU and its member states for an active mass atrocity prevention strategy, and they cite the potential strengths of the EU's capabilities in long-term prevention. This section shows that there are steps that can be taken to prevent mass atrocities and that fit into existing policies to promote human rights and prevent conflicts.

The table below lists policy goals - or ideal situations - that have been proposed in key works on mass atrocities and genocide prevention, because they address the most important risk factors.

TABLE 1 LONG-TERM PREVENTION OF MASS ATROCITIES: POLICY GOALS			
Political	Economic/Social	Legal	Military
Good governance	Economic inequalities reduced, particularly to ensure that some groups are not marginalised	Rule of law enforced (to counter discrimination against particular groups), and corruption tackled	Disarmament (including controlling militia)
Protection of human rights (including minority rights)	Economic opportunities improved (especially for youth), through sustainable economic development/growth	Independent judiciaries/ fair justice system (to counter discrimination against particular groups)	Reintegration of soldiers/ militia into civilian society
Indigenous conflict resolution capacity, community peace-building capacity, including capacity to respond to warning signs of mass atrocities	Education for tolerance	Domestic accountability/ address impunity (including criminal prosecution, truth and reconciliation processes)	Security sector reform (including civilian governance)
Democracy - including the diffusion of power	Openness to trade (foster interdependence)	Ratification of ICC	Restraints on weaponry/ small arms and light weapons control
Fair constitutional structures			Confidence-building measures
Press freedom, but action against incitement/hate speech			
Exclusionist ideology is marginalised			
Membership in international organisations (foster interdependence and socialisation)			

PREVENTING MASS ATROCITIES

Outsiders - states, international organisations such as the UN or the EU, and non-governmental organisations - can try to foster such ideal conditions using four main types of policy instruments: economic, legal, political/diplomatic and military. Policy instruments can be used in a 'positive' way, as inducement or engagement, or in a 'negative' way, as sanctions. Conditionality can also be used, such as when the granting or continuation of aid, dialogue or other benefits depends on the target meeting certain conditions. In this case, if certain conditions are not met, then aid or dialogue can be suspended or amended.

To meet the goals above, policy-makers should be aware of potential pitfalls:

- ▶ To avoid instability and the risk of mass atrocities during political liberalisation processes, policies (including security sector reform) should be designed to discourage factionalism and eliminate 'ethnaclass' domination. This may require the use of a wide range of policy instruments, including preventive deployments.
- ▶ To avoid the risk of conflict and mass atrocities during political liberalisation processes, outsiders should be wary of pressing for early elections, or should try to mitigate the risks by providing for peacekeeping, demobilisation of armed forces, disarmament of society and support for robust political institutions, including power-sharing arrangements.
- ▶ Conditionality can be effective if the target state wants the benefits on offer or fears losing them. But cutting off aid or other benefits may not address the causes of human rights violations or other illiberal political practices which go beyond the lack of political will. Inconsistent use of conditionality limits its credibility and hence its putative effectiveness. If some countries feel that they have been unjustly targeted, while other countries 'escape' chastisement for similar practices, then the actor imposing conditionality will appear biased.

2.2 Direct prevention

There is a wide variety of policy instruments that could be used to try to halt and reverse the escalation towards mass atrocities. As the escalation towards mass atrocities is usually instigated, directed and maintained by identifiable actors, it is possible to direct prevention measures at them. The table below summarises the tools that could be used:

TABLE 2 DIRECT PREVENTION OF MASS ATROCITIES: A CONTINUUM OF POLICY TOOLS

	Political	Economic/Social	Legal	Military
Positive/incentives	Friends groups	Economic inducements including trade and aid incentives		Incentives including military aid
	Provide financial and technical support for indigenous early-warning/response systems and conflict resolution by NGOs, local communities and/or business			
	Political incentives: diplomatic recognition; structured dialogue; membership in international organisations			
More intrusive measures	Diplomatic peace-making, including: ambassadors on the ground, use of eminent persons/envoys; good offices/mediation; track 2 unofficial dialogue; arbitration; peace commissions			Preventive deployment
	Fact-finding missions and the systematic collection of data by embassies on the ground			Prevention of incitement (e.g. jamming radios)
	Human rights investigations			Safe havens and no-fly zones
Negative/sanctions	Travel bans	Asset restrictions	Threat of or referral to ICC	Arms embargoes
	Diplomatic sanctions	Trade embargoes and other trade sanctions (e.g. banning of trade in particular products)		Threat of military force
		Economic sanctions including aid suspension or redirection		Sanctions including reduction in military aid

In using the instruments above, policy-makers should be aware of the following pitfalls:

- ▶ Direct prevention measures are often taken very late (if at all) because the response of governments and international organisations to warnings is slow. This is due to factors such as bureaucratic inertia, failure to transmit warnings to top decision-makers, and inflexible and unresponsive planning capabilities. As a result, crisis management rather than direct prevention tends to occur.
- ▶ Field missions (including human rights, fact-finding and monitoring missions, electoral monitoring missions, peacekeeping missions and so on) can help protect populations by deterring abusers, encouraging indigenous protection capacities, and supporting reformers. While not all abusers can be stopped or deterred, an international presence in the form of field missions can reduce perpetrators' 'political space' and thus can have a positive impact in many cases.
- ▶ However, mobilising instruments such as mediators, fact-finding missions, human rights monitors, and preventive deployment missions is slow, as the relevant personnel (and equipment) are usually not on stand-by and there can be delays in financing the use of such instruments.
- ▶ Recent experiences with sanctions illustrate the need to not overestimate their impact on a situation of imminent or ongoing mass atrocities, and also to provide lessons on how to increase the chance that they will be effective. The regime in question is unlikely to be deterred by minor, symbolic measures since it will have made a conscious political decision to proceed. International cooperation, however, can isolate the offending regime.
- ▶ Instead of trade embargoes (which can harm local populations), 'smart' or 'targeted' sanctions should be preferred. These target the individuals who are deemed responsible for the relevant situation by restricting their travel and freezing their assets. They can also include investment bans (blocking investment by private and state-owned companies in the target country), aviation bans (denying individuals permission to fly over or to and from sender countries), bans targeting particular products (such as diamonds or timber), and visa bans against private companies

that commit or facilitate gross human rights violations through the provision of information technology to monitor, track or target people for killing, torture or other grave abuses. Sanctions are just one tool among many that can be used to change the calculation of the regime in question.

- ▶ Sanctions have to be widely supported and implemented by outsiders (to minimise ‘sanctions busting’ and boost the legitimacy of the sanctions regime), the specific scope of the sanctions should be well chosen (to ensure that sufficient costs are imposed on the target), and the conditions for lifting the sanctions should be clear.
- ▶ Sanctions can take time to ‘bite’, and time is of the essence when trying to halt or reverse an escalation towards mass atrocities; they may also have little impact on perpetrators who have little to lose, though they can still signal disapproval and this may have some impact on potential perpetrators, as well as on any supporters they may have in the wider population. The freezing of assets of potential perpetrators may, however, be effective in some cases.
- ▶ Incentives could sway some perpetrators who are intent on mass atrocities and could change the perceptions of their potential supporters, but they have to be credible and attractive enough to have an impact and be offered at the appropriate time during negotiations or mediation. There is a risk that they will be seen as offering too much to individuals or governments that have violated human rights.

2.3 An Assessment of EU Capabilities for Preventing Mass Atrocities

The EU is endowed with significant capabilities that could be used for mass atrocity prevention. It is one of the largest aid donors in the world, has structured relationships governing trade and a host of other issues with almost every country on earth, has 141 delegations in non-EU countries and to international organisations, and is currently managing sixteen civilian and military missions across the globe which are involved in activities ranging from fostering the rule of law to training security forces. In addition, the EU has particular strengths in terms of its involvement in conflict-prone or post-conflict countries: it is seen as having a less ‘political’ profile than

the individual EU member states (and other international actors); at times it has great ‘staying power’, remaining in the field after others have left, as well as investing in long-term partnerships with third countries; it can draw on considerable financial support (€7.7 billion between 2001-10 for conflict prevention and peace building alone); and it has acquired valuable experience in fields relating to conflict prevention and peace-building.⁷

The EU has repeatedly declared that the promotion of human rights and the prevention of violent conflict are fundamental objectives of its external action. In June 2012, the Council reiterated that ‘the EU will promote human rights in all areas of its external action without exception’.⁸ A year earlier, the Council declared that ‘preventing conflicts and relapses into conflict’ is a primary objective of the EU’s external action.⁹ The EU has recognised there is a nexus between security, development and human rights.¹⁰ Although the prevention of mass atrocities is not explicitly stated as an external action objective, it fits broadly with those wider objectives. Furthermore, many EU member states are very supportive of an EU role in conflict prevention and mass atrocity prevention.

This section first considers the EU’s capabilities to prevent mass atrocities by using its policy instruments for structural prevention. It then assesses the EU’s capabilities to prevent the escalation towards mass atrocities.

2.3.1 Structural prevention

The EU has six major financial instruments whose objectives overlap with the policy goals outlined in Table 1. Two of those instruments are directed at specific aims and operate globally: the promotion of human rights and democracy (the European Instrument for Democracy and Human Rights,

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7. ADE, ‘Thematic Evaluation of European Commission Support to Conflict Prevention and Peace-building; Final Report, volume 1: Main report’, October 2011, pp. 97-98.
 8. Council of the European Union, ‘EU Strategic Framework and Action Plan on Human Rights and Democracy’, document no. 11855/12, 25 June 2012, p. 2. One of the EU’s eight ‘human rights guidelines’ provides recommendations for action in the area of promoting compliance with international humanitarian law, which includes reactions to war crimes. The seven other guidelines cover: the death penalty; torture; human rights dialogues; children and armed conflict; human rights defenders; rights of the child; and violence and discrimination against women.
 9. Council of the European Union, ‘Council Conclusions on Conflict Prevention’, 20 June 2011, p. 1. The objectives of promoting human rights and democracy, and preventing conflict, are also prominent in the February 2006 ‘European Consensus for Development’.
 10. See the ‘European Consensus on Development’, 24 February 2006 and the ‘Conclusions of the Council and the Representatives of the Governments of the Member States meeting within the Council on Security and Development’, 19 November 2007.

EIDHR) and mitigating instability (Instrument for Stability, IFS). The EIDHR provides aid mostly through non-governmental organisations, so it helps to foster an active civil society; it can also provide aid without the consent of the host country government, so in theory the EU could fund projects in authoritarian countries, though in practice most projects are in fragile democracies. The EIDHR, however, is a relatively small instrument (see table 3 below), while the IFS is used mostly for short-term crisis response. In 2011, €188 million out of a total budget of €282 million went for crisis or emerging crisis situations, while €15 million was dedicated to pre- and post-crisis capacity building.¹¹ The budget for the long-term component should rise to €24 million in 2013, so this is a growing segment of the IFS.

11. The remainder focused on responses to trans-national security threats, and reducing risks related to chemical, biological, radiological and nuclear materials. European Commission, '2011 Annual Report on the Instrument for Stability', COM(2012) 405 final, 24 July 2012.

TABLE 3 THE EU'S AID PROGRAMMES

Financial Instrument	Countries covered	Main objectives of the instrument, relevant to mass atrocity prevention	2007-2013 funding
European Instrument for Democracy and Human Rights	Any third country, though there are priority areas ¹	Promotion of democracy and protection of human rights (mainly via civil society organisations)	€1.104 billion
Instrument for Stability	Any non-EU country	In a situation of current or emerging crisis, to contribute to stability; in the context of stable conditions, to help build capacity to address threats	€2.062 billion
Development Cooperation Instrument (DCI)	47 countries mainly in Asia, Latin America; thematic programmes cover all developing countries	Support for democracy, the rule of law, human rights and fundamental freedoms, good governance, gender equality, sustainable development	€10.057 billion
European Neighbourhood and Partnership Instrument (ENPI)	Russia + countries in Eastern Europe and around the southern Mediterranean	Promotion of political dialogue and reform, rule of law, good governance, sustainable development, human rights, civil society, multicultural dialogue, support in post-crisis situations	€11.181 billion
Instrument for Pre-accession (IPA)	Countries that are either current or potential candidates for EU membership (including Turkey and the Western Balkans countries)	Promotion of democracy, rule of law, respect for human rights, minority rights, gender equality and non-discrimination, civil society; social inclusion; reconciliation, confidence-building and reconstruction; regional and cross-border cooperation	€11.5 billion
European Development Fund (EDF) (Cotonou agreement)	79 African, Caribbean and Pacific (ACP) countries	Support for sustainable development, entailing respect for human rights, fundamental social rights, democracy, rule of law and good governance. Support for peace-building, conflict prevention and resolution.	€22.7 billion

1. These include: countries where fundamental freedoms are judged to be the least secure; regions plagued by transnational conflicts (for example the Caucasus, the Middle East, the African Great Lakes region, and the Horn of Africa); and countries engaged in a human rights dialogue with the EU.

The EIDHR and IFS can play a role in structural prevention, but the prevention of mass atrocities should also be incorporated into the EU's development aid programmes. In fact, while having the tools for effective developmental policies is a necessary condition for effective mass atrocity prevention, it is certainly not sufficient. As in the case of forecasting and warning, a mass atrocity lens is necessary to develop a consistent and comprehensive approach to structural prevention.

Incorporating such a lens, however, requires the will to do so and the overcoming of some bureaucratic obstacles. This has been hard to achieve in the related areas of conflict prevention and human rights. A recent evaluation found that the Commission rarely used its formal, documented conflict analyses to inform its aid programming, and that almost one half of its country and regional strategy papers did not refer to relevant conflicts in the country or region. Similarly, the Commission's own checklist of the root causes of conflict was rarely used (or even known) by the Commission itself.¹² The incorporation of human rights into development aid is also fragmented, so that although many instruments such as the strategy papers include human rights language, programming across a wide variety of sectors (such as transport, energy, or health) has shown little evidence of a human rights-based approach.¹³

As for EU trade policy, it is also not clear if human rights promotion or conflict prevention (much less mass atrocity prevention) are incorporated into policy. Not only does the EU have trading links (codified in association or cooperation agreements) with almost every country on earth (regardless of the type of government in power), but issues that are important in a mass atrocity prevention policy - such as fostering youth employment and socio-economic equality - do not always play a role in trade relations with countries where risk factors are present. However, the EU's Generalised System of Preferences (GSP) incentive scheme sets out the standards which vulnerable countries must ratify in order to benefit from increased access to the EU market. These include fundamental human rights treaties and the Genocide Convention. Preferences can be suspended in case of grave

12. ADE, 'Thematic Evaluation of European Commission Support to Conflict Prevention and Peace-building; Final Report, volume 1: Main report', October 2011, pp. 19-27, 29.

13. European Parliament, 'Study: Human Rights Mainstreaming in EU's External Relations', EXPO/B/DROI/2008/66, September 2009, pp. 42-3, 57.

human rights violations; so far the EU has suspended preferences for three countries: Belarus, Myanmar and Sri Lanka - the latter due to concerns about the treatment of civilians during the government's defeat of the Tamil Tigers in 2009.¹⁴ But the negative measures against Sri Lanka were taken in August 2010, over a year after the events that generated so much concern. While they may signal EU disapproval, and indicate to other states how the EU could react in similar situations, they were clearly not used as a means of preventing atrocities.

There is a danger, however, in using trade sanctions because one of the risk factors for mass atrocities is a low level of economic interdependence. In any event, however, the EU has a clear preference for using positive measures such as incentives, and avoiding the use of negative measures (as can be seen in the reluctance to use the human rights clause, discussed below). In addition, EU sanctions can be a blunt instrument; for example, the EU suspended negative measures (but not an arms embargo) on Myanmar in April 2012, to signal its approval of political liberalisation processes there, but was thus left with few concrete instruments to signal its concern over the treatment of the Rohingya a few months later.

The EU does include a 'human rights clause' in its cooperation and association agreements with over 120 countries; it states that respect for democratic principles and human rights are an 'essential element' of the agreement and that violation of an essential element can lead to the partial or total suspension of the agreement. The human rights clause also provides a basis for discussing human rights with third countries, as well as a justification for incorporating considerations of human rights into all fields of cooperation with third countries. But the use of the human rights clause has generated concerns about inconsistency and double standards. Through 2009, the EU invoked the clause in approximately fifteen cases, all of which were ACP countries.¹⁵ The human rights clause is usually used only as a reaction to grave violations of human rights and democratic principles such as in Zimbabwe, Togo or Mali (most recently, in March 2012), rather than as a preventive measure to discuss or signal concern

14. Myanmar and Belarus were suspended primarily for violations of workers' rights; Sri Lanka was suspended for its shortcomings in its implementation of the International Covenant on Civil and Political Rights, the Convention against Torture and the Convention on the Rights of the Child.

15. European Parliament, 'Study: Human Rights Mainstreaming', p. 36.

over human rights abuses on a lower scale. Elsewhere, the human rights clause is rarely invoked. Thus, all of the Euro-Med agreements include a human rights clause but it was never applied, even in the case of Ben Ali's Tunisia or Mubarak's Egypt. In those cases - and others - the commercial and political interests of member states can prevent agreement on invoking the human rights clause.

The EU's aid programmes for domestic transitional justice projects and the EU's strong support for the International Criminal Court are other potential assets for the prevention of mass atrocities. Funding is considerable - €600 million per year for 'law and justice' projects. But this funding may be poorly coordinated with more general external policies and overall it has suffered from the lack of a strategic, political approach.¹⁶ In the Western Balkans, the EU's conditionality includes cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY), and its rhetoric strongly supports the notion of tackling impunity for past atrocities. But while ICTY conditionality seemed to be effective in the case of Croatia, Serbia was sometimes treated as a special case, thus allowing relations to develop despite the lack of progress in ICTY cooperation.

Elections have been identified as crux events that could potentially destabilise fragile countries, so the extent to which such countries are given assistance to minimise the risks of instability is important in a mass atrocity prevention strategy. The EU has acquired considerable experience in supporting electoral processes in third countries, and the EIDHR funds general election assistance as well as election observation missions (78 missions since 2000). The EU and the OSCE have a division of labour regarding election observation, with the OSCE's Office of Democratic Institutions and Human Rights carrying out observation missions within OSCE member states. Given that elections can trigger violence or even mass atrocities, the use of a mass atrocity lens when assessing the utility of election observation and the election process itself is needed in addition to the other variables that the EU incorporates into its analysis.¹⁷

16. See ADE, 'Thematic Evaluation of European Support to Justice and Security Sector Reform' October 2011.

17. See for example European Commission, 'Handbook for European Union Election Observation', 2nd edition, 2008.

The difficulties of incorporating goals such as conflict prevention and human rights promotion (and eventually mass atrocity prevention) into broader policies are in part created by the complex institutional structure at the EU level. In the post-Lisbon structure a disconnect exists between the EEAS and the Development Cooperation Directorate General in the Commission (DG DEVCO). Coordination between the EEAS and Commission has also become more difficult, particularly as DG DEVCO is part of the Commission and desk officers have lost a degree of the coordinating role that they had when RELEX (the old External Relations Directorate-General) was still in existence. However, the Conflict Prevention, Peace-building and Mediation Instruments Division does take a long-term and structural approach, inherited from the DG RELEX approach to conflict prevention. Also, within DG DEVCO, a new unit on State Fragility and Crisis Response was created in 2011 to try to use state fragility as a framework regulating aid (or necessitating its suspension). The unit aims to improve internal coordination and develop new tools, thus ameliorating the lack of coordination between EEAS and DEVCO, and to work with delegations in third countries to include ‘fragility sensitivity’ in their programming. There is of course a risk that by creating a separate unit, ‘fragility sensitivity’ will not be fully incorporated across all of the EU’s external activities and will add another bureaucratic actor to the already complex mix of institutions in Brussels.

Commission officials within DEVCO agree that no specific mass atrocity lens is used to design development programmes, even when they concern democratisation, the rule of law, or human rights protection. In this part of the system, mass atrocities are seen as a ‘crisis’ that the EU can try to prevent by intervening with development policies in fragile states and in post-crisis situations where there is risk of further escalation. While programmes focused on democratisation, transitional justice, nation-reconciliation processes and the rule of law are seen as the best tools to decrease the likelihood of mass atrocities in fragile states, the need for a specific lens for mass atrocity prevention is contested by some EU officials, as it is seen as superfluous or overloading an already-full agenda for development.

In addition to its aid programmes, the EU can use diplomatic instruments, such as declarations, démarches, and dialogue, to try to mitigate the risk factors that lead to mass atrocities. Dialogue can be carried out within the

framework of the EU's cooperation and association agreements. In some cases, a dedicated sub-committee on human rights has been formed under the rubric of the agreement and dialogue is conducted in that framework, as with Cambodia, Pakistan, the Palestinian Authority, and Uzbekistan. The EU also conducts 'structured human rights dialogues' with countries such as Belarus, China, and Turkmenistan. The EU repeatedly states that it raises concerns about human rights issues in these dialogues, but it is not clear what follows from this: the EU's own reports give no indication of the extent to which the third country in question responded to the EU's concerns, nor whether the EU took any further action as a result. External assessments of the dialogues are not publicly available (though the 2012 Strategic Framework and Action Plan for Human Rights and Democracy indicates that by 2014 the EU will establish priorities, objectives, indicators of progress for EU human rights dialogues, which will facilitate their review). Partly as a result of this, critics have accused the EU of being too willing to engage 'softly' with human rights violators such as Uzbekistan and Turkmenistan. EU officials have expressed concerns that the prevention of mass atrocities is too sensitive an issue to bring up in dialogues with third countries and that doing so would jeopardise the relationship. However, some member state officials have argued that if done sensitively, dialogue could build consensus on minimising the risks of mass atrocities.

The EU's civilian and military missions may also play a major role in mass atrocity prevention. Many of the (almost thirty) current and past missions have been deployed in post-conflict situations. Missions have trained police and security forces as part of their support for security sector reform and disarmament (for example, in Bosnia-Herzegovina, Democratic Republic of Congo, and Guinea Bissau), helped to strengthen the rule of law (in Kosovo and Iraq, among other places), helped to supervise elections (in the Democratic Republic of Congo), protected refugees (in Chad), and helped to implement a peace agreement (in Aceh, Indonesia). However, the EU's civilian and military missions tend to be short-term interventions: mandates are agreed for, at most, two years at a time and the objectives are to be reached in a short time frame. Peace-building, instead, requires a longer-term and more strategic perspective, as might be found in the transfer of the EU police mission activities in Bosnia-Herzegovina to longer-term development aid projects.

The EU has a legally-binding framework to limit arms exports, which is an important element of a strategy to prevent mass atrocities. A 2008 EU Common Position sets out the criteria which are to be used by member states when assessing their arms exports, which include: respect for human rights in the country of final destination as well as respect by that country of international humanitarian law; internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts; and preservation of regional peace, security and stability. Member states are to exchange information on the export licences they have granted and those they have denied. Transparency regarding arms exports has increased, though this is not even across member states and may have decreased more recently. The Common Position, however, does not include ‘democracy and good governance’ as criteria to be taken into account by member states when considering export licenses. In addition, the interpretation of the criteria clearly varies: in the five years before the Arab Spring, for example, EU member states allowed arms exports worth over €1 billion each to Egypt and Libya.¹⁸

2.3.2 Direct prevention

Many of the policy instruments that the EU could use for structural prevention of mass atrocities are also of use when there is a clearer, imminent risk that they could be perpetrated. Thus the EU can either offer incentives such as trade preferences or aid, or restrict those benefits by cutting off aid and imposing trade sanctions. The Instrument for Stability can be used quite quickly to react to situations that are deteriorating, to try to restore stability. In addition, EU delegations can alert DEVCO about a looming crisis and the DEVCO director can authorise the allocation of money (‘envelope B’) to respond to the crisis. The EU can impose travel bans, asset restrictions, arms embargoes and diplomatic sanctions (such as agreeing to withdraw member state diplomats from a particular country).

A shift from structural to direct prevention entails identifying when a situation is deteriorating, and one recent evaluation of the EU’s conflict prevention policies noted that this is not always done, or anticipated.¹⁹

18. Mark Bromley, ‘The Review of the EU Common Position on Arms Exports: Prospects for Strengthened Controls’, EU Non-Proliferation Consortium, Non-Proliferation Paper no. 7, January 2012, p. 10.

19. ADE, ‘Thematic Evaluation of European Commission Support to Conflict Prevention’, p. 38.

Thus, for example, the 2011 EU Strategy for Security and Development in the Sahel underestimated the possibility that conflict could escalate in Mali, which happened only a few months later. The potential for conflict had been discussed in the Political and Security Committee a couple of years before widespread violence broke out, but only limited action was taken. This is an indication of both the challenge the EU faces in identifying the need and mobilising the resources to engage in direct conflict prevention (rather than act earlier, it ends up reacting to crises), and also the need for incorporating a mass atrocity lens into the policy-making process.

The use of incentives - especially in a fast-moving situation - has proven to be a challenge to the EU when the incentives could affect the material interests of EU member states. Thus offering the relaxation of visa requirements or facilitating trade access for agricultural products are issues on which the member states rarely compromise. Sanctions too are difficult to time correctly even when all the member states can agree to act quickly: although the EU reacted swiftly to the escalation of violence in Syria by imposing very strong measures such as a ban on the import of oil, such measures still require time to have an impact on the ground and in the meantime, mass atrocities have continued.

The EU now has quite extensive diplomatic resources - including EU delegation personnel and eleven EU special representatives (ten of whom are posted to post-conflict areas²⁰) - but the EU has not been proactive in using mediation and dialogue as a tool in all phases of conflict management. Few examples of the actual use of mediation for conflict prevention have been mentioned in official documents, such as the CFSP Annual Reports. The potential for mediation as a prevention tool has, however, been noted: in 2009, the Council recommended strengthening the EU's capacities in mediation and dialogue by boosting training programmes for officials, creating more flexible means of using mediation capabilities and cooperating more effectively with other actors (local and international).²¹ Since then, a Mediation Support Team has been established within the EEAS Conflict Prevention, Peace-building and

20. Afghanistan, the African Union, Bosnia and Herzegovina, Central Asia, the Horn of Africa, Kosovo, the Middle East Peace Process, the South Caucasus and Georgia, the Southern Mediterranean region, and Sudan and South Sudan. There is also a Special Representative for Human Rights.

21. Council of the EU, 'Concept on Strengthening EU Mediation and Dialogue Capacities', doc. 15779/09, 10 November 2009.

Mediation Instruments Division, providing operational support, training and lessons learned to EU colleagues engaged in mediation exercises at different levels. In 2012, a major effort was made to provide mediation coaching sessions for EU delegations worldwide. However, the effectiveness of the EU's endeavours in the field of mediation is still hindered by many factors. The post-Lisbon structure is more affected by the bottleneck problem arising from the need to coordinate a considerably larger bureaucratic structure and trying to achieve a 'joined-up' approach. Under the old system the Commission had at least some possibilities for acting independently of member states, for instance by launching mediation missions, but this capacity has been lost in the EEAS. This is one of the reasons why some member states have supported the creation of a European Institute for Peace.

The EU has worked with other actors to take action in looming crises. For example, with respect to fears of impending atrocities in Kyrgyzstan in 2010, the UN Regional Center for Preventive Diplomacy in Central Asia coordinated with the EU Special Representative for the region, as well as the OSCE, to mediate an end to the violence. The EU also gives strong support to the African Union to develop its capacity for conflict prevention and peace-building, through the African Peace Facility (to the tune of €700 million since 2004). But the EU-AU partnership is often focused on military reaction, rather than on enhancing civilian capabilities and expertise. Partnerships with some other regional organisations are still being strengthened in the broad field of conflict management; in April 2012, the EU offered to assist ASEAN in developing its conflict management and crisis response capacities, but elsewhere cooperation is even less developed, partly because other regional organisations lack either a mandate or intergovernmental agreement to engage in conflict management, much less in mass atrocity prevention.

Some of the measures listed in table 2, however, have not been undertaken by the EU (such as human rights investigations or fact-finding missions) but by the UN. The EU could support such efforts, as generating the capabilities on its own is proving difficult (as discussed in chapter 3). As discussed also in the next chapter, the EU's military capabilities for direct prevention of mass atrocities are even less developed. Its capacity to engage in coercive preventive tasks such as threatening military force or establishing no-fly zones is still limited, even if the political will to do so could be mustered.

2.4 Conclusion

The EU has clear strengths in the area of structural and direct prevention, though there are a few areas where its capacities could be improved, as in dialogue and mediation, or the use of CSDP resources for preventive measures. What it currently lacks is the use of a mass atrocity lens so that its strengths can be better directed to help prevent the perpetration of mass atrocities. This will require better coordination and collaboration across the EU. It will also require better analysis and assessment in its policy planning processes of the risks of mass atrocities in third countries and incorporation of strategies to address those risks across the range of its external policies.

3. COERCIVE RESPONSES TO MASS ATROCITIES

WHERE DOES THE EU STAND AND HOW CAN IT IMPROVE?

If mass atrocities are taking place, then prevention has obviously failed. But further mass atrocities could still be prevented, so responses form part of a direct prevention strategy. Furthermore, it is difficult to define clearly a point when potential responders are certain that mass atrocities are actually occurring and that they need to shift from mitigating risks and preventing harm from occurring towards managing an ongoing crisis and stopping mass atrocities from continuing. This response has to be as swift as possible with adequate tools along a continuum of steps. Normally, these will need to entail an element of coercion and this will be the main focus of the chapter. At the same time, policy-makers need to keep in mind the non-coercive means to save lives at their disposal, for instance, by giving potential victims information and practical help to evade perpetrators of violence or by using some of the instruments discussed in the previous chapter to persuade perpetrators to change their behaviour.

The debate on responses to mass atrocities in the context of R2P has led to a reconsideration of basic concepts, including military concepts located between war fighting and peacekeeping, understood as the deployment of neutral forces with the consent of belligerents that only entails the use of

force in self-defence. But there is also a whole spectrum of non-military action, which may be used for the prevention or halting of mass atrocities. The distinctive premise of R2P in both cases is that all actions should be intended to prevent and halt mass atrocities.

3.1 Coercion and military involvement in mass atrocities situations

3.1.1 The need for legitimacy regarding the use of force

The chances for successful intervention rise if military operations are seen as legitimate by the international community and local populations. It is obvious that interventions authorised by the UN Security Council are legal and will normally be seen as legitimate. However, intervening countries may lose legitimacy in different ways, even if acting upon a Security Council decision, such as by pursuing hidden agendas in connection with their own interests, committing crimes themselves or failing to prevent killing resulting from an excessive use of force. The implementation of R2P by some NATO countries in Libya was criticised since its objective was perceived to be regime change rather than protection of the civilian population. Intervention driven purely by political interest can come into conflict with the humanitarian objective of a mass atrocity response and may ignore the principle of local ownership in the aftermath of intervention. Intervening states also lose credibility, if not legitimacy, if they react differently to situations that are comparable in terms of humanitarian need. There may always be good reasons not to intervene and each case is different, but this option was dismissed by the NATO Secretary-General right at the start of the Syrian crisis and states who had led armed operations in Libya did not lend their support to protecting humanitarian agencies or facilitating the flow of refugees.

The underlying problem in terms of ensuring that coercive responses to mass atrocities are legal and legitimate is the lack of an international consensus on how R2P is to be exactly implemented. The response to mass atrocities draws largely on tools previously developed in the framework of conflict prevention, and related challenges, such as the provision of humanitarian assistance to victims of conflict, definitions and approaches tend to overlap. Human security, protection of civilians (PoC) and conflict prevention often

compete with, rather than complement, R2P. For example, initially the discussion in the Security Council on the implementation of R2P was seen as part of a discussion on the protection of people, but now there appears to be broader consensus that the concepts are distinct with regard to their principal objectives, legal basis and related operational considerations. Many humanitarian and development actors fear that implementing R2P while this lack of clarity prevails would hinder their access to vulnerable populations. As a result, disagreement on the modalities of the protection of civilians during military interventions to halt mass atrocities (known as ‘responsibility while protecting’) may erode the consensus on the responsibility to protect.

3.1.2 The need for an immediate effective deterrent

The goal of effectively preventing or putting an end to mass atrocities with the minimum use of force requires a sober but determined combination of all existing measures, which in turn requires a joint assessment of the situation, based on early warning, together with adequate operational coordination. The idea that an international response to mass atrocities is necessarily a military one needs to be challenged, although the military dimension should be fully integrated into a comprehensive civilian-led response. The threat of coercive measures, including the use of force, will be an essential element of any strategy to respond to situations where the respective government or a powerful non-state actor is perpetrating international crimes. The supportive role of the military as regards many non-coercive measures, which may be taken in parallel, should be enhanced and recognised, while full military intervention must remain a means of last resort. Military measures in response to mass atrocities are controversial and will lack international support if they are seen as a smokescreen for narrow national self-interests.

In 2008, the US Genocide Prevention Task Force identified a range of coercive measures available at the bilateral and multilateral levels to respond to imminent or ongoing mass atrocities:

TABLE 4 COERCIVE RESPONSES TO IMMINENT OR ONGOING MASS ATROCITIES			
Diplomatic	Economic	Legal	Military
Condemnation	Trade sanctions	Domestic indictments	Withdrawal of military assistance
Naming/shaming	Divestment	Referral to international courts	Arms embargoes
Recalling or expelling diplomats	Aid reduction or suspension		Heightened presence
Travel bans	Comprehensive or selective embargoes		Jamming/ information operations
Withdrawal of diplomatic mission	Seizure of assets of elites responsible for atrocities		Sabotage/ leadership targeting
Suspension or expulsion from international organisations			No-fly zones and safe havens
Cultural/sporting boycotts			Intervention

Diplomatic measures can be taken rather quickly, while economic, legal and military measures normally take some time to be implemented. However, the extent to which each of these measures can deter or inhibit perpetrators varies. Diplomatic and economic measures alone, and without the credible threat of coercive measures in the background, will normally not be effective in the short term, at least against a regime that has decided to kill systematically a part of its own population. The same can be said of referral to international courts, as the likelihood of the process starting in the short-term is extremely low, especially if no intervention takes place. Even the threat to use force may render no results or may be counter-productive if it is not credible and cannot be implemented quickly, as perpetrators may feel that escalating violence is the only way to survive.

There is an intensive debate about the extent to which direct military involvement can prevent mass atrocities. While military actions led by the US, NATO or the EU to protect the Kurds in Iraq in 1991, the Kosovar Albanians in 1999 or the city of Bunia (DRC) in 2003 are frequently cited as successful

interventions, some experts doubt whether robust military action could have prevented the genocide in Rwanda or whether international forces could have prevented attacks on civilians perpetrated by Janjaweed militias in Darfur in 2003. Different modalities of coercive protection of civilians could help stop massacres, including: the creation of safe havens (no-fly zones, protected areas) where victims can seek refuge and humanitarian aid can be delivered, the creation of humanitarian corridors and the protection of aid convoys and aid workers or other international personnel working to protect local populations at risk. When drawing on the lessons learned from past experiences, five principles of best practice for mass atrocity response operations can be identified:

- ▶ First, the overriding and all-determining objective of armed responses to mass atrocities is to halt them. Stopping the worst suffering is not a means to an end, but the overall goal. The armed responses are not intended to establish a lasting peace or to put a new, or renewed, political system in place. Modalities of relevant military operations range from protecting civilians, to protecting relief efforts, or attacking and defeating the perpetrators of mass atrocities. At the operational level, options include creating safe havens through area control, separating victims from perpetrators through establishment of a buffer zone, deterrence through show of force and demonstrated presence, as well as precision strikes or other offensive operations against perpetrators. Although regime change may be a necessary consequence of international intervention - when a government intensifies the perpetration of mass atrocities - it should never be the goal of intervening countries.
- ▶ Second, the dynamics of mass atrocities might unfold with great speed, which requires rapid action. The possibility of quick escalation points to the importance of early warning, advance planning, corresponding political will and military capability. This principle is at odds with traditional preferences of military and political leaders for overwhelming force as a prerequisite to successful intervention.
- ▶ A third principle of best practice is that the intervening force needs to be able to dominate the area of operations in relation to every opposing force present. Deployed troops will need rules of engagement that do not contradict the purpose of intervention - to save lives - while at

the same time giving them flexibility to escalate if the situation on the ground so requires.

- ▶ Fourth, the intervening parties need to be willing to escalate. Threats against perpetrators must be credible. It lies in the basic logic of a threat that, if it fails, it has to lead to punishment. This implies that actions located on the lower end of the escalation spectrum might only succeed if the targets of such actions understand and believe the willingness of the interveners to escalate. Motives are relevant in this regard. The willingness to make credible threats and to escalate if necessary has proven to be greater if both interests and values are at stake for the intervener. Intervention based purely on values faces the danger that intervening parties are not willing to provide the necessary resources and carry the likely costs, both in terms of lives and treasure, to see it through successfully.
- ▶ Fifth, mass atrocity response operations demand a detailed understanding of the different stakeholders, ranging from victims, to bystanders, to perpetrators in the theatre of operations. This may require a change in the type of information to be gathered and analysed by early-warning systems. It emphasises the need for adequate intelligence, surveillance and reconnaissance assets of intervening states.

However, past experience has demonstrated that military means alone cannot successfully and sustainably put an end to mass atrocities. In addition to adapting military assets and training to the particular challenges on the ground, there is an urgent need to develop civilian capabilities, in particular for policing and rule of law tasks, and to build national capacities in that regard. In this context, international civilian leadership of military interventions would secure the cooperation required for sustainable stabilisation, and may neutralise the temptation of intervening countries to seize political and economic advantages during a transition period.

3.2 An Assessment of EU Capabilities for Responding Coercively to Mass Atrocities

The EU has been active in promoting discussion at the UN on conflict

prevention, human rights protection, protection of civilians in armed conflict and R2P, while at the same time developing its own discourse and practice. The EU tends to mix the concepts of PoC and R2P, which risks stirring tensions with countries with legitimate concerns that the responsibility to protect may undermine the sovereignty of small developing countries.

The EU's security policy, even if incomplete and not fully shared by all EU member states, is grounded in 'human security' and predicated on protecting civilians and on R2P, with legitimacy deriving either from the consent of the parties to the conflict or UN Security Council authorisation. Although the EU may adopt and has indeed adopted its own sanctions with regard to potential R2P situations, it is highly unlikely that it will intervene militarily without Security Council authorisation. In practical and operational terms, however, there is still a long way to go before human security is placed at the centre of EU security and defence policy.

The EU relies on or cooperates with its member states in the implementation of its security doctrine, particularly when it comes to military action, due to the lack of its own autonomous military resources and permanent headquarters. Attempts to strengthen cooperation with NATO have not succeeded - the 2002 Berlin Plus agreements on EU-NATO cooperation merely facilitated two operations, in Macedonia and Bosnia - due to the Cyprus/Turkey problem,²² although it is still generally considered the most desirable option since it would allow for complementarities. Pooling and sharing of national military capabilities among EU member states thus remain the only feasible options at present, although a group of member states is currently pushing for the setting up of a modest operational headquarters to plan and lead Common Security and Defence Policy (CSDP) operations, just as the EU has headquarters for police and rule of law missions. For other member states this option seems unpalatable.

Additionally, the EU's consideration of military intervention cannot be disconnected from an understanding of when and for what purposes member states contribute forces to such operations. In most cases, multiple motives have to be present for member states to put their troops in harm's

22. In brief, Cyprus is blocking EU cooperation with NATO because it wishes to isolate Turkey (over Turkey's relationship with northern Cyprus), and Turkey responds in kind by blocking NATO cooperation with the EU.

way, including broader economic, security and political considerations. In the past, national discussions did not concentrate on developing the most effective options to mitigate a situation of imminent or ongoing mass atrocities. The EU's engagement in Chad and the discussion on involvement in Mali were perceived as guided by the strong national interests of one or just a few member states, rather than jointly by the EU. However, even though it was initiated by France, Operation Artemis of 2003 in the DRC offers valuable lessons for the consideration of limited short-term operations to prevent or halt genocide, war crimes and crimes against humanity under UN authority. These lessons include the methodology as much as the operational resources employed.

3.2.1 General principles and mechanisms

Since 1999, and the launch of the CSDP, the EU aims to make an autonomous contribution to conflict management and conflict prevention using civilian and military instruments. In the development of its security doctrine, the EU has aimed for a comprehensive approach, allowing it to combine military and civilian capabilities. The 2003 European Security Strategy argued that the protection of EU security began far beyond the Union's borders. Therefore, managing internal state crises and failing states elsewhere appeared as a way to avoid their potential negative consequences, including political instability and armed conflict, spreading to Europe. It recommended addressing such potential threats to the EU's security through a unique combination of military, humanitarian, and policing capacity.

The EU has made clear commitments regarding civilians at risk. The EU Revised Guidelines on the Protection of Civilians in CSDP Missions and Operations adopt the humanitarian definition of protection, which includes all activities to ensure the full respect for the rights of the individual in accordance with international humanitarian, human rights and refugee law.²³ Thus, similar to the UN, the EU has transformed the protection of civilians from a task into an overarching principle.

More broadly, there seems to be general agreement on EU engagement in the implementation of R2P as an expression of a values-based common

23. In 2003, the EU developed draft guidelines on the protection of civilians for CSDP missions, and these were revised in 2010 to articulate the need to integrate protection of civilians in the initial assessment, planning and strategies for all CSDP actions, including those involving civilian means.

foreign policy bound by human rights and UN principles. A relevant, though brief, step was made in the 2008 Report on the Implementation of the European Security Strategy, which stated that governments held a shared responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. But there is a gap between discourse and reality at the EU level, since institutional developments and decisions involving military capabilities still lack a specific focus on preventing and halting mass atrocities.

In order to facilitate EU autonomous action, particularly as regards the military dimension of CSDP, the Lisbon Treaty establishes new mechanisms introducing flexibility and acknowledging the primary role of member states. According to article 27 of the Lisbon Treaty, the EU may acquire operational capacity by using capabilities provided by the member states. The treaty allows the Council to entrust an operation to a group of member states, which should keep the Council regularly informed. It also establishes a mechanism for enhanced inter-governmental cooperation, ‘permanent structured cooperation’, which under certain conditions allows a group of member states to integrate further in the military realm.

The level of ambition, in spite of the difficulties of acting jointly, remains intact. The Lisbon Treaty even expands the categories of operations that can be undertaken by the EU. In addition to the original three ‘Petersberg’ tasks, consisting of humanitarian and rescue operations, peacekeeping and tasks of combat forces in crisis management, including peace-making, the treaty added joint disarmament operations, military advice and assistance tasks, conflict prevention and post-conflict stabilisation. However, it has become clear in the midst of the financial and economic crisis that CSDP is not a priority for most member states.

3.2.2. Implementing the EU’s response in mass atrocities situations

3.2.2.1 Comprehensive approach

The EU aspires to combine civilian and military elements as required in order to contribute to sustainable peace in third states. Crisis management should ideally be preceded, accompanied and followed by general foreign policy measures with due consideration of the evolution of the situation on

the ground. The EU should be able to use its economic, legal, humanitarian, financial, civil and military tools in a coherent manner, which requires establishing overarching policy goals for each situation.

The EU has tried to strengthen the civilian dimension of crisis management as a necessary complement of military action and promoted civil-military synergies in capability development. The Lisbon Treaty provides new opportunities for using these resources in a comprehensive manner, particularly with the creation of the European External Action Service, which includes CSDP structures, and the double-hatting of the High Representative for Foreign Affairs and Security Policy as Vice-President of the European Commission.

The Council's decision on the EU rule of law mission in Kosovo (EULEX) is the first example of a direct reference to the implementation of R2P, particularly to its first pillar: 'there is a need to prevent, on humanitarian grounds, possible outbreaks of violence, acts of persecution and intimidation in Kosovo, taking account, as appropriate, of the responsibility towards populations as referred to in Resolution 1674 by the United Nations Security Council on 28 April 2006'.²⁴ But the reality is that the comprehensive approach to crisis management in the framework of EU external action is far from being achieved, particularly as regards situations of mass atrocities. The expression 'missions without policy' reflects the fact that CSDP has not often been used as the instrument of a common European policy objective, but as a substitute for EU foreign policy. Moreover, EU civilian and military missions have not been necessarily articulated with other elements of an EU response.

There are some signs of improvement, though, particularly as regards planning capacity, with new CSDP structures such as the Crisis Planning and Management Directorate, which is entrusted with the political-strategic planning of CSDP missions, and the EEAS' development of regional strategies for the period 2007-2013. The strategies for the Horn of Africa and the Sahel region are renewed attempts to implement a comprehensive approach. Yet while these strategies cover countries which are included in any genocide and mass atrocities watch list, such as the DRC, Ethiopia or

24. Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo; OJ L 42/92, 16.2.2008.

Sudan, they do not include specific analysis or activities with respect to mass atrocity prevention.²⁵

3.2.2.2 Capabilities

The main obstacle preventing the EU from meeting its ambitions in the security and defence field is the lack of available resources. This level of ambition is most clearly defined in the 2008 declaration on strengthening capabilities, which in fact stated the EU's failure to meet previous 'headline goals' (which set out levels of capabilities to be achieved). The declaration nonetheless keeps a high level of ambition in both the military and the civilian dimensions, and with a clear reference to NATO support in the former case.²⁶ The fact is, however, that member states have not been willing to meet these ambitions.

The civilian headline goals have not been fulfilled, and most of the ideas for enhancing quick response on the civilian side, such as the Civilian Response Teams and Security Sector Reform expert pools, remain underused. The Council relies on national ministers of interior, justice and finance to comply with existing commitments. Yet if it were fully developed, the EU's unique civilian approach could mitigate the prevailing trend towards increasing militarisation of the international response to mass atrocities, which has not been conducive to enhancing human security (with Libya as a recent case in point).

As to military resources, due to the absence of a budget covering the military dimension of crisis management, CSDP has endured shortcomings in both the quantity and the quality of resources made available by member states. The limited budget devoted to CSDP operations - the Athena Mechanism, to which member states contribute according to their GDP and which covers roughly ten per cent of expenses - means that the bulk of financial means has to be provided by troop-contributing states. This principle, also known as 'costs lie where they fall', has worked against common action. The best solution may not be ex-post facto funding, since countries not willing to pay

25. The EU uses five broad military scenarios for planning purposes, which are also relevant for situations of imminent or ongoing mass atrocities: separation of parties by force; stabilisation, reconstruction and military assistance to third countries; conflict prevention; evacuation operation in a non-permissive environment; and assistance to humanitarian operations. Only the latter scenario includes an explicit reference to mass atrocities.

26. Council of the European Union, 'Declaration on Strengthening Capabilities', Brussels, 11 December 2008.

might veto decisions (even if they contribute no personnel to the mission), but to create a common fund to cover a significant share of EU action. Ad hoc agreements with a few non-EU countries to join CSDP operations, such as Canada, Norway, Russia, Turkey and the US, do not compensate for the lack of military capabilities at the EU level, since their contributions remain symbolic.

The availability of EU battle groups is limited in practice - only one of the two required will be on stand-by during both semesters of 2013 - even though they were declared fully operational in 2007. EU battle groups are considered high-value assets, only to be used in exceptional circumstances associated with Petersberg Tasks and similar operations requiring a quick military deployment, following a unanimous decision of the Council. Member states have blocked a more flexible use of battle groups. No decision to deploy one has been adopted as yet. Goma (DRC) in 2008, where there was a risk of mass killings by armed groups approaching the town, was not considered a suitable exceptional case, which shows how difficult it is for the EU to play a relevant military role in R2P situations.

Parallel attempts of pooling and sharing member states' military capabilities, in order to avoid fragmentation and thus duplication while enhancing interoperability of deployable forces, have not achieved satisfactory results. The Council is now advocating a complete change of mindset in this regard, which should allow for a structured policy.²⁷ The current economic crisis could constitute yet another opportunity to strengthen common action by ensuring military interoperability or dual civilian-military use of technology, as the Council has also stressed, but this has not been the case so far due to the rigidity of defence structures and budgets. Even states supporting the strengthening of EU external action are aware that substantial pooling and sharing entails investment. The establishment of a European defence industrial base and market appears unlikely in the medium term. Exploratory work is nonetheless ongoing in certain domains, such as strategic and tactical transportation, logistical support, sharing information and intelligence, and interconnecting civilian and military capability development processes.

27. Council of the European Union, Conclusions, 22 March 2012.

Moreover, there are no current attempts to provide European armies with adequate training for preventing and responding to mass atrocities; that is, there is no European approach to MARO. Such an approach should include police and/or gendarmerie-type forces alongside military ones. In many R2P situations, strong police forces should be tasked with substituting for national law enforcement actors or with monitoring their performance and/or co-patrolling while building adequate capacities at the local level. The EU has deployed European police in a number of conflict and post-conflict contexts (Afghanistan, Palestinian Territories, Bosnia-Herzegovina, DRC, Georgia, Kosovo, and Iraq), although with limited mandates due to the size of the operations.

An initiative which should be improved and enlarged as a potentially fundamental contribution of the EU to MARO, is the European Gendarmerie Force (EGF) - established by France, Italy, the Netherlands, Spain and Portugal in 2004, joined by Romania in 2008 - which relies on 'robust' police capabilities. The EGF should be able to deploy rapidly to 'non-benign' environments and undertake the full spectrum of police responsibilities under civilian or military command through the EU, NATO, the OSCE, the UN or ad hoc coalitions.²⁸ It is at present training Afghan security forces under the chain of command of the NATO Training Mission in Afghanistan, and has been previously deployed to Bosnia-Herzegovina and Haiti, but never in sufficient numbers to directly protect populations at risk.

3.2.2.3 Effectiveness

The gap between expectations and demands of EU action, on the one hand, and, on the other, the military and civilian resources that member states are willing to make available to the Union, has been growing. The level of effective commitment of member states with CSDP has been uneven, with recent signals of decreasing commitment particularly in relation to mass atrocity situations. In spite of some improvements as regards crisis management, no permanent structures or capabilities of the EU have been created. As a consequence, it may take months of negotiations for a country to make available even a few police officers for an EU operation. This situation limits the likelihood of the EU performing an autonomous, decisive role in the prevention or cessation of mass atrocities, considering

28. See <http://www.eurogendfor.org/organization/what-is-eurogendfor>

that these operations are extraordinarily demanding in terms of human, technical and financial resources.

The EU's response to recent events such as violence in Libya has revealed disagreements among member states over the implementation of R2P, limitations in the effective commitment to CSDP, and shortcomings in existing capacities at EU level. The EEAS has established a Crisis Response Platform in order to bring together the different civilian and military capabilities, which was activated with regard to the crises in Cote d'Ivoire and Libya in 2011. However, it appears that the management instruments did not include a mass atrocity perspective regarding possible perpetrators, victims and scenarios. In the case of Libya, the EU used the civil protection mechanism to bring approximately 6,000 EU citizens back to their home countries, and EU field experts in humanitarian aid and civil protection were deployed inside Libya and on its borders. The European Council decided to set up a military mission, EUFOR Libya, to support humanitarian efforts inside the country, but member states later disagreed about its concept of operations. The UN Office for the Coordination of Humanitarian Affairs also never asked for EUFOR Libya to be deployed, a condition which had been set by EU member states. As a result, the mission was never activated. Due to the lack of sufficient and permanent military planning capabilities, the EU also took considerably longer in its planning of the operation (two months) than NATO, which produced four operational plans two weeks after the crisis erupted.

The EU is, however, predominantly known as a 'civilian actor' in crisis management. The overwhelming majority of the almost thirty operations launched by the EU since 2003 have been exclusively civilian and rather small. As regards the few military or predominantly military operations of the EU, over 80,000 personnel (including rotations) were deployed, with a concentration in the Balkans and Africa, performing the most varied tasks, from traditional military peacekeeping in Bosnia and Herzegovina to training the Afghan and Iraqi police forces. The EU was able to respond promptly to prevent escalations in crisis situations such as Macedonia in 2003 and Georgia in 2008, and to establish a 'bridge' with UN operations as in the EUFOR Chad/CAR mission. Although the protection of civilians was the overall goal of some missions, none of them - not even the few

military ones - were directly aimed at putting an end to a situation of mass atrocities. The closest exception is Operation Artemis, launched for a few months in 2003 to stabilise Bunia (DRC) and protect civilians under imminent threat of physical violence, establish a weapons-free zone inside the town and improve humanitarian conditions, until the UN peacekeeping mission was reinforced. The operation was led by France.

Leaving aside very exceptional cases, EU coercive measures regarding mass atrocity situations mainly consist of sanctions, not generally considered the most efficient tool, and other 'restrictive measures', with little strategic and systematic use of a wider range of measures as listed in table 4. The EU has imposed sanctions in situations of imminent and ongoing mass atrocities, in most cases implementing UN Security Council resolutions. Such sanctions targeted the responsible government, governments of third countries, non-state entities and individuals. Measures included general arms embargoes, trade restrictions or financial restrictions, as well as sanctions targeting individuals with travel bans or asset freezes. However, a systematic review of the impact of EU sanctions on the prevention of mass atrocities has not been undertaken and the time gap between a decision and its impact might limit its effectiveness beyond political signalling. The Council's quick reaction in imposing sanctions on, for example, Libya and Syria, shortly after the Security Council had taken the relevant decision, was a signal of urgency and concern. However, the role of sanctions may be seen as a stage of escalation towards subsequent military intervention, as in Kosovo or Libya, or a substitute thereof, as in Syria recently. This can confuse the signals sent.

The EU has launched some operations involving police personnel or the EGF which could have made a difference had they been deployed preventively or as an early response, as well as with a sufficient size, but the current pattern is that of tiny contingents engaged in training local security forces in the aftermath of conflict. The fact is that in hard cases involving ongoing mass atrocities, adequate and sufficient military capabilities are needed to ensure that sanctions are effective or that civilian action is feasible. This means that the EU is bound to cooperate or synchronise its action with that of military actors, including EU member states, if its commitment to play a role is not merely rhetoric.

3.2.2.4 Cooperation

Since EU aspirations for autonomous military action in demanding cases have effectively been abandoned, and the aspirations contained in the Civilian Headline Goal 2010 also remain unfulfilled, the EU currently lacks the capacities to respond on its own to most scenarios involving mass atrocities. The natural conclusion is that cooperation with other international actors must be strengthened both in the military and civilian dimensions. The EU has always contributed to UN operations, not only in financial terms, even if there has been a decline in this. There is, however, a need to enhance cooperation with other actors so that the EU can be regarded as a fully-fledged actor itself.

Examples of EU-UN cooperation are not scarce. The Union sent military forces to the DRC in order to quell an outbreak of disorder in Bunia in 2003 and again as a deterrent against disorder in Kinshasa during the 2006 elections, in both cases with the objective of supporting the larger UN peacekeeping mission in the DRC. More generally, EU responses to areas at risk of mass atrocities and humanitarian crises beyond Europe's immediate neighbourhood have been channelled via the UN. In 2008 and 2009, the EU deployed its largest military mission outside the Balkans to eastern Chad and the Central African Republic, mainly to help protect refugees from Darfur across the region before handing over to UN troops in 2009. Cooperation with the UN is also intense as regards the civilian dimension of crisis response. The EU has recently provided extra funds to the UN Mediation Support Unit, with which it cooperates closely.

Cooperation of the EU with other regional organisations is much less developed, with limited exceptions in the cases of NATO, OSCE and the African Union:

NATO

In the midst of the economic crisis, and considering the inability of the EU to comply with its own goals, the present mood among policy-makers seems to be that only NATO can provide the military dimension of European crisis management. There is an increasing emphasis on EU-NATO cooperation on the part of the EU. However, NATO's 2010 Strategic Concept does little to develop the partnership between NATO

and the EU, and the political blockage resulting from the Cyprus issue does not seem to allow for hope in the short or even medium-term with regards to effective operational cooperation. In the past, NATO has been the preferred channel of action in case the US decided to intervene in a certain situation, which could then be complemented by EU non-military action. However, its role is less clear if the US is not willing to intervene, in which case the limits of EU autonomous action would become evident. CSDP may thus consolidate as a secondary frame for action in spite of eventual minor operations being launched, far from achieving what is required to put an end to mass atrocities.

OSCE

The European Commission has traditionally supported OSCE activities in countries experiencing mass atrocities, for example, the OSCE rehabilitation activities in the areas affected by the Georgian-Russian conflict in South Ossetia. Cooperation on the ground between the two organisations has been informal, but intense in certain situations; the OSCE Mission in Kosovo worked alongside EULEX on aspects such as police training or rule of law. Sometimes this cooperation has been institutionalised; for example, the EU and the OSCE, along with the UN, have worked together as Co-Chairs of the Geneva discussions on security and stability in Georgia. The Georgia conflict in fact reflects a transition in the relationship: the EU established a Monitoring Mission in Georgia from October 2008, while OSCE states failed to agree on renewing the mandate of the OSCE mission in December 2008. In spite of the continuation of regular contacts between the two organisations at different levels, relevant official documents reflect a decreasing enthusiasm as regards possibilities that were initially contemplated, such as the ‘contribution by the EU to the OSCE’s operational efforts in crisis management,’ and the possibility of ‘EU crisis management operations following a request from the OSCE’.²⁹ The 2006 draft ‘Joint Declaration on Cooperation between the EU and the OSCE’ did not reach a consensus in the OSCE mainly due to diplomatic tensions with Russia. But there are some OSCE initiatives

29. See Draft Council Conclusions on EU-OSCE Cooperation in Conflict Prevention, Crisis Management and Post-Conflict Rehabilitation’ (doc. 14527/1/03 REV 1, Brussels, November 2003), endorsed by COREPER in December 2004, and ‘Draft Assessment Report on the EU’s Role vis-à-vis the OSCE’, doc. 15387/1/04 REV1, Brussels, of 10 December 2004.

which are specifically relevant for the prevention of mass atrocities, such as the OSCE's High Commissioner on National Minorities or the Conflict Prevention Center, with which the EU should intensify exchanges.

AU

The EU and the AU have established an unparalleled framework of cooperation in the field of peace and security under the Joint Africa-EU Strategy, adopted in Lisbon in December 2007, and its Action Plans. It basically entails financial support by the EU for the operationalisation of the African Peace and Security Architecture. The EU has supported African Peace Support Operations (PSOs) and capacity-building for the period 2008-13, including in situations of mass atrocities, for example, the AU Mission in Sudan (AMIS) and the AU Mission in Somalia (AMISOM). In terms of capacity-building, the EU's support is directed mainly towards the operationalisation of the African Stand-by Force, which should be composed of stand-by multidisciplinary contingents (civilian, military and police) rapidly deployable at appropriate notice. Through the African Stand-by Force, the AU should be able to conduct observation and monitoring missions and classical PSOs, but also interventions in member states in case of grave circumstances, preventive deployment and peace-building. Improvements are less impressive at the practical level, with the failure of AMIS as a telling example. In July 2007, AMIS had to be replaced by a hybrid AU/UN operation (UNAMID) with the mandate to protect civilians and ensure security for humanitarian assistance, as well as to prevent violence along the borders with Chad and the Central African Republic.

The EU should not only make all efforts to strengthen and enhance cooperation with these three but also with other regional organisations. On the one hand, it should aim to exchange best practices and launch joint endeavours with those organisations which have a consolidated record as regards conflict prevention and peace-building, such as the Council of Europe, Organisation of American States, and ASEAN. On the other hand, and perhaps with especial emphasis, it should engage with those regional organisations which are increasingly involved in situations of potential or actual mass atrocity, such as the Gulf Cooperation Council, whose role has been decisive as regards the situation in

Yemen, or the Arab League, which is undergoing a profound transformation as a result of new challenges in the region.

3.3 Conclusion

Coercive means, including military action, are an essential part of any continuum of steps defined by the EU and its member states to prevent or halt mass atrocities. In order to serve as a credible deterrent, coercive measures must be credible and effective with regard to their expected impact. To this end, coercive measures need to be able to change the political calculation of potential perpetrators and aim exclusively at the physical protection of potential victims from mass atrocities. Building on adequate early-warning information and ongoing analysis of the situation on the ground, member states need to coordinate and combine their national capabilities within the EU framework. In this regard, EU member states lack key military capabilities required to fulfil crucial tasks within any mass atrocity response operation. The methodologies and tools developed in the context of conflict prevention or the protection of civilians need to be adapted to the particular challenges of MARO. While the establishment of such capabilities is inevitable, the related financial and other resources could be shared and limited by a joint strategy on the EU's role in implementing the R2P, including cooperation with the UN and regional organisations.

4. CONCLUSIONS AND RECOMMENDATIONS

This Report has highlighted the substantial potential of the European Union to make a significant contribution to the prevention and stopping of mass atrocities. The EU has considerable strengths in each of the three broad areas of warning, prevention and response. At the same time, the Task Force has also identified four core problems impeding the ability of the European Union and its member states to prevent mass atrocities with secondary problems flowing from them:

- ▶ Mass atrocity prevention is rarely mentioned in key EU documents and by key EU actors, despite EU commitments to protect and promote human rights, and despite its support for the responsibility to protect (R2P).
- ▶ Integrating a preventive mindset into EU foreign policy-making is a challenge, given the dominant focus on crisis management, especially within the Council.
- ▶ Efforts to strengthen conflict prevention and human rights policies need to include a distinct mass atrocity lens in intelligence, planning capacities, policy-making and implementation.
- ▶ There are problems of coordination within the EU, as well as an underused potential for collaboration with local and international partners.

To address these four core problems and subsidiary shortcomings identified in the chapters above, the Task Force puts forward the following recommendations:

1. The EU should make explicit its commitment to preventing mass atrocities.

The EU should match the strong normative commitment it has made to promoting human rights and conflict prevention by including an explicit commitment to preventing mass atrocities - the worst form of human rights violations - within this normative framework. This would help to strengthen the EU's claim to be an international leader in this area. A stronger normative commitment could also help reduce the incidence of double standards, as it would boost the expectation that the EU would act in accordance with the pledge to prevent mass atrocities. Such a commitment could be signalled in any of the following ways:

- ▶ A common understanding on preventing mass atrocities should be developed among the institutions and twenty-seven member states. This could be done by a European Consensus on R2P similar to those on development (2005) and humanitarian aid (2007). Leading up towards such a consensus, European party families could pass a resolution supporting the commitment to prevent mass atrocities and contribute to a resolution by the European Parliament for strengthening mass atrocity prevention.
- ▶ The European Council should include a clear reference to mass atrocities as a threat to the EU's values in the next update of the European Security Strategy. It should also provide for more guidance on how the EU should prioritise scarce resources in terms of countries or regions.
- ▶ The Foreign Affairs Council and EEAS could incorporate 'prevention of mass atrocities' in existing strategies for human rights and conflict prevention. They could also ask the key units working on intelligence to include mass atrocities among the list of threats to be monitored.
- ▶ The Foreign Affairs Council could issue a ninth set of human rights guidelines on the prevention of mass atrocities.

- ▶ The Foreign Affairs Council could issue conclusions on the prevention of mass atrocities.
- ▶ The High Representative could be requested to submit an annual report on mass atrocity prevention.
- ▶ The Council and Commission could incorporate the objective of mass atrocity prevention in the regulations on financial instruments, the EIDHR, IFS, DCI, ENPI and IPA. National parliamentarians working on this topic in relevant committees across Europe should build a common platform to elevate mass atrocity prevention vis-à-vis their own national governments and increase visibility in the national news media through hearings and reports.

2. The EU should cultivate expertise in the area of mass atrocity prevention and warning.

Expertise and knowledge of mass atrocity prevention and how to warn about them should be strengthened, both within EU institutions and member states, through appropriate recruitment, training and building of skills. This would enable the EU to prioritise effectively and focus resources and political attention on the countries and regions where they are most needed:

- ▶ The EEAS and member states should look at ways of mapping and cultivating country/regional and thematic mass atrocity expertise across the EU. This could be done through a dedicated career track for country experts and running training programmes aimed at making better use of country/regional experts.
- ▶ In areas where the EU does not currently have staff with sufficient expertise, the EEAS should consider either hiring long-standing experts from NGOs/universities or systematically utilising their expertise by setting up advisory boards.
- ▶ The EEAS should integrate a section related specifically to the root causes of and dynamics leading towards mass atrocities into the training programmes for officials, as well as generic training on biases in analytical judgements. Training should also focus on how to effectively warn local, regional and Brussels-based decision-makers

in terms of getting attention and being considered credible.

- ▶ The training needs to be underpinned by new procedures for fast-tracking warnings, opportunities for expressing judgements about surprising developments and strengthened protection for officials who articulate politically inconvenient warnings.

3. The EU's warning-response system should be strengthened

- ▶ In order to establish a clear point of accountability for following up on warnings about mass atrocities the EU could consider appointing a Special Adviser or a Special Representative with a mandate to provide early warnings, make recommendations for early action, and promote mass atrocity prevention within the EU. The Special Adviser would be responsible for following up on the annual list of countries at the highest risk or when there are warnings of near-term mass atrocities.
- ▶ This post would need to be tied closely to existing structures geared towards conflict prevention to avoid it becoming side-lined from the rest of the institution. For this to work, the EEAS review should elevate conflict prevention to the same hierarchical level as the Crisis Response Unit and strengthen the links between the Conflict Prevention Group and high-level decision making.
- ▶ Given the potential for decisions on warnings to be delayed in decision-making bottlenecks within the EU's complex setup, more powers for response to warnings should be devolved to the heads of EU delegations and, in some cases, to EU Special Representatives. EU Special Representatives and their staff should be fully integrated in the EEAS organisational structure so that they can have access to the full EEAS resources and intelligence. The mandates of EU working groups and the Political and Security Committee should be revisited to create greater and more regular space for decision-making on preventative action, including against the potential for mass atrocities to occur in the near-term.
- ▶ The EEAS and member states should review existing warning systems and assessment products already existing within EU member states.

Are there synergies in either information gathering or analysis that could be realised?

4. The EU should build on its strengths in structural and direct prevention, by employing a mass atrocity lens across the spectrum of relevant activities

- ▶ The prevention of mass atrocities should be incorporated into the EU's development and trade policies, through the systematic assessment of risk factors and relevant measures in Country Strategy Papers and Regional Strategy Papers.
- ▶ DG DEVCO and the EEAS should further strengthen their coordination structures.
- ▶ The prevention of mass atrocities should be a standard agenda item in the EU's dialogues with third countries that are at particular risk of mass atrocities, thus enabling the discussion of appropriate action plans to address risk factors.
- ▶ The EU should strengthen its capacity to engage in mediation and dialogue so that it can also intervene in the short term to try to prevent the escalation towards mass atrocities. The EU's existing capacities (dialogues with third countries, the Special Representatives, EU delegation officials) should be employed where there are risks of mass atrocities, and it should ensure that mediators and dialogue facilitators have appropriate training and expertise. The EU should be able to deploy mediators quickly.
- ▶ The human rights clause in agreements with third countries should be activated when there are warning signs that mass atrocities could occur.
- ▶ The EU's criteria on arms exports should include democracy and good governance, and there should be a more coherent and unified approach to acting according to the criteria. If there is a substantial risk that arms would enable mass atrocities to be committed, arms should not be exported.

5. The EU's capabilities to react quickly to mass

atrocities should be improved

- ▶ To break out of the gridlock currently impeding the development of CSDP and the problems with NATO filling the gap, permanent structured cooperation should be enacted amongst those member states willing to go further with developing military capabilities.
- ▶ The EU should concentrate on the development of substantial ‘strong police’ capabilities as components of both traditional peacekeeping operations, thus providing for direct protection to potential victims, and local police reform support operations, which may be undertaken not only in the aftermath of a massacre but also preventively. The EU should in this regard build on previous experiences, such as the EU police mission in Bosnia and Herzegovina, and existing structures, such as the European Gendarmerie Force, in order to play a distinctive autonomous role which should add to international efforts to implement R2P.
- ▶ The financing principle for CSDP needs to be revised to ensure that contributing member states no longer bear 90 per cent of the costs of missions.
- ▶ One of the battle groups on standby should be explicitly equipped and trained in advance at national or cross-national level for mass atrocity response operations. This would require greater attention in national defence policy, military doctrine and training to such operations. The EU should work together with NATO to facilitate this process.
- ▶ Contingency planning should be included for situations of imminent or ongoing mass atrocities not identified earlier or where structural prevention failed. EUMS, PMG and CIVCOM should be tasked with developing relevant scenarios and concepts, which should be integrated into comprehensive regional strategies. Planning facilities should be upgraded to enable this.
- ▶ Joint civil and military coordination mechanisms should be strengthened to bring together policy planning and strategy. The EU should consider adopting the concept of integrated missions similar to the UN.

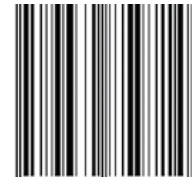
6. The EU should cooperate more closely with other actors to prevent mass atrocities.

- ▶ The EU should work closely with others to build a broad international strategy to prevent and respond to mass atrocities, highlighting those areas where the EU could add value in particular situations.
- ▶ The EU should collaborate with local actors (civil society, business and the media) to use their capacities for mass atrocity prevention and resolution, for example by supporting community-based early warning and response in areas with high inter-ethnic tensions.
- ▶ The EU should expand its support for the building of civilian conflict prevention and peace-building capacities of other regional organisations; exchange staff and best practices with other regional organisations; engage in joint initiatives; and ensure that its support for African Union capacities focuses on structural and direct prevention capacities as well as crisis response.
- ▶ Cooperation between academics and non-state actors should be facilitated in order to develop methodologies and complement institutional and governmental efforts.
- ▶ The EU should exchange information and cooperate more closely with the UN Office of the Special Adviser on the Prevention of Genocide and the Special Adviser on the Responsibility to Protect, the OSCE High Commissioner for National Minorities, and other relevant institutions at the regional level.
- ▶ The EU should actively contribute to UN discussions on R2P, mainly by proposing specific modalities of implementation that are acceptable to the international community, while in turn requesting other emerging international actors to play an active role in implementation.

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