European Union Security Actorness: The Comprehensive Approach Hampered by Policy Differentiation

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Abstract

The purpose of the article is to analyse the implications of policy differentiation for EU's comprehensive approach in security matters. The change in the post-Cold War security environment (opportunity) favoured the explicitness of the (pillarised) security actorness of the European Union. Following the 9/11 attacks, the EU adopted an ambitious security approach that confirmed four interconnected dynamics: expansion of the security agenda, externalisation of internal security cooperation, internalisation of Common Security Defence Policy, and cross-pillarisation. It was an upgrade for the assertion of the European Union as a comprehensive and multi-functional security actor, endowed with autonomy, capability and presence. Since then, the EU narrative and practices on Comprehensive Approach have been applied to several security problems such as crises and conflicts, organised crime, piracy, cybersecurity, failed states, trafficking in human beings, radicalisation, hybrid threats. The comprehensive approach combined with a global (reach) ambition impose unique requirements on EU. A major challenge to EU's security actorness is policy differentiation in the security domain. With the entry into force of the Lisbon Treaty, the EU acquired legal personality, enabling it to conclude treaties and to assume external representation. This also means that, for the first time, external and internal security policies evolve in the framework of an International Organisation. The Treaty also overcame pillarisation, transferred the cooperation on internal security to the TFEU, introduced amendments in the continued search for the Union's external coherence and demonstrated the dynamism of the policies of the former second and third pillars. However, the adjustments that were introduced denote a constructive ambiguity, patent in the existence of provisions enabling a comprehensive action, on the one hand, and of a hidden pillarisation, on the other hand, aggravated by the absence of an explicit concern with the coherence between the external and internal dimensions of security ('the missing link').

Resumo

A Actorness Securitária da União Europeia: A Abordagem Holística Comprometida pela Diferenciação Política

O artigo tem por objetivo analisar as implicações da policy differentiation para a comprehensive approach (CA) da União Europeia no domínio da segurança. O ambiente do pós-Guerra Fria (oportunidade) favoreceu a explicitação da actorness de segurança da UE. Após os ataques terroristas de 11 de Setembro de 2001, a União adotou uma abordagem ambiciosa demonstrativa de quatro dinâmicas interconectadas: expansão da agenda de segurança; externalização da cooperação no domínio da segurança interna; internalização da Política Comum de Segurança e Defesa; transpilarização. Tal representou um avanço em benefício da afirmação da UE como ator de segurança holístico e multifuncional, dotado de autonomia, capacidade e presença. Desde então, a narrativa e as práticas europeias generalizam-se a diversos problemas de segurança tais como crises e conflitos, crime organizado, pirataria, cibersegurança, Estados Falhados, tráfico de seres humanos, radicalização, ameaças híbridas. Esta abordagem associada a uma ambição de actorness global impõem exigências únicas à UE. Um dos principais desafios decorre da policy differentiation na área da segurança. Com a entrada em vigor das alterações introduzidas pelo Tratado de Lisboa, a UE passou a estar dotada de personalidade jurídica, o que lhe permite celebrar tratados internacionais e ter representação externa. Tal significa que, pela primeira vez na história da construção europeia, a cooperação no domínio da segurança (interna e externa) desenvolve-se no âmbito de uma Organização Internacional. O Tratado de Lisboa também superou a estrutura em pilares, introduziu alterações com vista a reforçar a coerência da atuação externa do ator europeu e comprovou o dinamismo cooperativo no âmbito das políticas dos antigos segundo e terceiros pilares. No entanto, os ajustamentos consagrados pelo Tratado Reformador evidenciam uma ambiguidade construtiva patente nas disposições que favorecem uma ação holística, por um lado, e na pilarização encoberta, por outro, agravada pela ausência de uma preocupação explícita com a coerência entre as dimensões interna e externa da segurança (the missing link).

The Monnet Project is a response to a Westphalian security concern (inter-state conflict) resorting to post-Westphalian non-security means: supranational, incremental institutionalism. The European integration process has operated a 'silent revolution' in International Relations and has shown its dynamism in three essential aspects: deepening, enlarging and building a post-Westphalian polity. The internal dynamics facilitated, sometimes even enhanced, by the international environment, favoured the emergence of the economic actor (in a first phase), of the international actor and, after the Cold War, of the security actor (ongoing process).

In a context in which the community discourse has been fertile in identifying Europe's challenges in a globalised world[1], amongst which we find the post-Westphalian security challenges, it is paramount to reflect upon the contribution of EU comprehensive approach to the security governance of the European Union. The Union has been innovative in creating a *de facto* security community that overcame the European interstate conflict, and since the end of the Cold War it endeavoured to address the multi-sector and transnational threats of a complex security environment:

> "The threats facing Europe, no longer exclusively 'hard', but rather often 'soft', no longer respect the geopolitical borders of the nation-state and the EU. More importantly still, they traverse and resist the institutional 'borders' and arrangements traditionally designed to manage them (social agencies, informational authorities, police, etc.). The most significant effect of this shift is that the lives of citizens are no longer regulated at the physical borders. The border operations traditionally provided for by the nation-state (border controls and security guards, passport authorities, etc.) have in this way shifted outwards. At the same time, a growing number of European and

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1   See for instance: "Lecture by Javier Solana, Secretary General/High Representative for the Common Foreign and Security Policy, at the Inauguration of the Diplomatic Academy of the Ministry of Foreign Affairs of the Republic of Poland, on 'Global Challenges for the European Union's Common Foreign and Security Policy'", Warsaw, 16 October 2002; "Press Conference at EU Informal Summit Hampton Court", 27 October 2005; European Commission, "Communication from the Commission to the European Council of June 2006 – Europe in the World – Some Practical Proposals for Greater Coherence, Effectiveness and Visibility" (COM/2006/278), Brussels, 2006; "Speech by Javier Solana EU High Representative for the Common Foreign and Security Policy 'Europe's Answers to the Global Challenges" at the University of Copenhagen, 8 September 2006", Copenhagen, 2006; "Declaration on the Occasion of the 50th Anniversary of the Signature of the Treaties of Rome", Berlin, 25 March 2007; Commission of the European Communities, "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and The Committee of The Regions: The European Interest: Succeeding in the Age of Globalisation: Contribution of the Commission to the October Meeting of Heads of State and Government" (COM/2007/581), Brussels, 2007; "Comunicado de Imprensa da Presidência sobre o Conselho Europeu Informal [de Lisboa]", Lisboa, 19 de Outubro de 2007; Foreign Commonwealth Office, "Global Europe: Meeting the Economic and Security Challenges", 2007; "EU Declaration on Globalisation" (annex), "Brussels European Council – 13/14 December 2007 – Presidency Conclusions", Brussels, 2007.

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international organizations have taken on increasingly dominant roles entirely detached from nation-state sovereignty, further contributing to the interrelatedness of non-national institutions and regions, and further weakening both the role and capacity of traditional sovereignty arrangements." (Burguess, 2009, p. 315)[2].

The widespread use of the 'Comprehensive Approach' (CA)[3] in EU security narrative and practices raises several questionings about the what (is the CA), the why, the how (to implement it), and the 'with what effects'. Considering that the main challenge to this ambitious approach (of an actor in-making without exclusive powers in the sensitive domain of security) is the 'how', this Article focus on policy differentiation as a constraint to EU Comprehensive Approach. In this line of thought, the main research question is formulated as follows: How the Lisbon Treaty contributed to the CA in security matters? The main argument is that the Lisbon Treaty legally enshrined the comprehensive approach of the actor, in line with the previous cross-pillar tendency catalysed by the 9/11 events and by the nature of the main challenges to European security. The amendments introduced by the Treaty show, however, a constructive ambiguity patent in the coexistence of provisions enabling a comprehensive action in the security domain, on the one hand, and of a hidden pillarisation based in policy differentiation applied to internal and external security, on the other hand.

The Article begins by framing the research on EU's security policy. The second section traces the path of EU security actorness towards a comprehensive approach. The third section focus on the changes inserted by Lisbon Treaty with relevance to

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2   "The world faces traditional and non-traditional security fears. Many of our countries are targets of terrorism, which eight years on from September 11, 2001, we must recognize is down, but by no means out. There are fragile states to contend with as well as the dangers of the proliferation of weapons of mass destruction, authoritarian regimes, and the threat of extremism. Globalization has also thrown up non-traditional security challenges with no respect for national frontiers. Global pandemics can spread faster; a lack of secure and sustainable energy could push us into a world-wide recession; and climate change, beyond its environmental consequences, could have serious geopolitical and social repercussions." (Barroso, 2009).

3   This is part of a general international trend. The same expression (or similar expressions) are being used by Governments ('Whole-of-government approach', UK and US; '3D', Canada and Netherlands) and IOs ('integrated approach', UN; 'Comprehensive Approach', NATO; 'Comprehensive Approach', African Union and OSCE; 'WGA', OECD). The same or near-by expressions share the same rationale – coherence (through coordination) across different policies and actors –, but they are applied to different areas depending on the actor (e.g., UN – peacebuilding; NATO – civil-military). Coning (2008, p. 7) distinguishes four elements of coherence in the Comprehensive Approach: agency coherence; whole-of-government coherence; external coherence; external/internal coherence. Coning and Friis (2011) elaborated a matrix to analyse those forms of coherence based on six categories – ('actor's') union, integration, cooperation, coordination, coexistence, competition.

security actorness. The final one analyses the policy differentiation in the security domain.

Towards a Holistic Perspective on EU Security Actorness

In the first phase of definition, the European security actor followed the state model, based on the separation between external security and internal security, reinforced by the pillars structure. This is the reason why the research followed specific non-communicating agendas, but the prevailing trend was the analysis of the issue of 'European security' within the framework of the second pillar. Accordingly, the subject of European security actorness acquired relevance following the creation of the European Security and Defence Policy (ESDP) (Vasconcelos, 2009). The implementation of operations on the ground has contributed to the visibility and subsequent recognition of the security actorness by external actors, inheritors of the realist legacy which values the military component and the classic distinction between the external and internal dimensions.

The research on EU 'internal security'[4], in the broader framework of cooperation in the Justice and Home Affairs (JHA) field, developed autonomously, mostly using the contributions from criminal and legal sciences:

> "For a long time literature dealing with security issues in the context of European integration tended to focus only on traditional external and particularly military security issues. Yet during the 1990s internal security started to occupy increasingly prominent place on the agenda of the European Union." (Mitsilegas, Monar and Rees, 2003, p. 1)

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4   The cooperation in internal security has developed in the broad domain of Justice and Home Affairs/Area of Freedom, Security and Justice. Until the Lisbon Treaty the most common terminology was 'Police Cooperation and Judicial Cooperation in Criminal Matters'. The designation of [EU] 'internal security' was consolidated by the Lisbon Treaty. For the first time in the TEU the terminology 'national security' appears unexpectedly associated to internal security, leaving the reader with a methodical doubt concerning the conceptual difference (not clarified by the legislator) between both. In previous Treaties, 'internal security' referred to the Member States internal security. The setting up of the COSI deepened the collective dimension of 'internal security' in the common area. The explanation for the terminological diversification is presented in a report by the British Parliament: "On 12 July 2007 Mr. Murphy gave oral evidence to this Committee on the June 2007 European Council. Discussing the distinction between national security and internal security, he said that the latter phrase was previously in common use but was in his view open to misunderstanding, since it had come to describe "two different but not mutually exclusive things. Internal security was the internal security within Member States but also internal security within the European Union, and we wished to move away from the possibility of misunderstanding, which is why we have now moved towards the description of national security, and the fact that it is for the first time explicit in the terms of this Treaty." (United Kingdom, 2008b, p. 158). In rigour, the EU cooperation in this field reports to 'transnational security'.

Furthermore, one should note that the first pillar had also concurred to the building of the security actor, particularly in the areas of conflict prevention and peace-building. Considering the initially economic bias of the international organisation (EEC), which began by asserting itself in the realms of trade policy, development cooperation policy and humanitarian aid, it is only natural that it easily incorporated the nexus peace-development/poverty-conflict and thus favoured action over the *root causes* of conflicts[5]. This connection, which is also reflected on the introduction of the security component in the agreements with developing countries, enabled inter-pillars coordination, namely between the first and second ones. Within the framework of the development policy revision started in 1995, the EU included conflict prevention in the development policy, initially associated with Africa[6], with a focus on conflict analysis, early warning and early action.

The cross-pillar approach adopted in the fight against transnational terrorism associated to the increase in the civilian dimension of the ESDP, required an inter-pillar coordination and a rising role for the Commission in the field of security (*lato sensu*). These developments have induced the theorisation of the European Union as a comprehensive and multidimensional actor, in which *EU Security Governance* by Emil Kirchner and James Sperling (2007) is framed. The authors organise the EU's response into four categories that cover the three former pillars: *prevention* (inter/intra-state conflict prevention through the building of democratic institutions and the consolidation of civil society), *assurance* (peace-building), *protection* (internal security), *compellence* (implementation of the CSDP through peace-making, peace-keeping and peace-enforcement autonomous missions). Gradually, the Union constituted itself as "the facilitator of joint action", defined "its role as an autonomous security actor" and legitimised "its partial displacement of the state" (Kirschner and Sterling, 2007, p. 122).

The present analysis applies a combined theoretical framework. The above mentioned Kirschner and Sterling's security governance theorisation is articulated with the conceptual elements of actorness conceived by Bretenthorn and Vogler (2007) to

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5   See for instance "European Commission Checklist for Root-causes of Conflict/Early Warning Indicators" [online], available at http://ec.europa.eu/external_relations/cfsp/conflict_prevention/docs/cp_guide_en.pdf.

6   See Council of the European Union, 1995. *Preventive Diplomacy, Conflict Resolution and Peace-keeping in Africa*; Commission of the European Communities, 1996. *The EU and the Issue of Conflict in Africa: Peace-building, Conflict Prevention and Beyond*; Council of the European Union, 1998. *The Tool of Development Co-operation in Strengthening Peace-building, Conflict Prevention and Resolution*; Commission of the ECs, 2001. *Communication from the Commission on Conflict Prevention* (COM/2001/211); Council Conclusions on Security and Development, 2007. More recently, the comprehensive regional strategies also focused on Africa: Sahel (2011), Horn of Africa (2011), Great Lakes (2013) and Gulf of Guinea (2014).

EU international dimension: presence – "ability of the EU, by virtue of its existence, to exert influence externally, to shape perceptions, expectations and behaviour of others"; opportunity – "factors in the external environment of ideas and events that constrain or enable actorness"; capability – "the availability of policy instruments and understandings about the Union's ability to utilize these instruments, in response to opportunity and/ or to capitalize on presence". Concerning the latter criteria, a specification in called: institutional capacity (autonomous institutions and specialized bodies, and institutional processes, including decision-making processes within the IO); policy capacity (agenda-setting, adoption, implementation and monitoring of policies); legal capacity (legal personality and capacity to adopt legal instruments); resources (human, material and financial resources). This article addresses one of the elements of the mentioned criteria: policy capacity[7].

The Evolving Security Actorness: From Pillarization to Comprehensive Approach
The economic specialisation of the European international organisation and the debacle of the European Defence Community Project, associated to the nature of the threat and the guarantee of the security needs by the USA and NATO during the Cold War, postponed the inclusion of the security agenda. Although the clarification of the security actor (and subsequent theorisation) only materialises in the post-Cold War, one can say that the problematic issue of security is ubiquitous in the European integration process.

Underlying the creation of the ECSC, there was a classic reactive security concern against a globalised European war and one preventive of a new inter-state conflict. The Monnet project built upon an institutionalised and gradual strategy aimed at guaranteeing the Franco-German peace (and thus European peace) through the integration of the coal and steel sectors in a post-Westphalian organisation. "European integration has always involved the use of economic cooperation to reduce political conflicts among EU Member States" (Smith, 2004, p. 7).

Countering the (realism) scepticism concerning the usefulness of the 'community' concept in the world of *power politics*, national interest and anarchy, the European Union has proved it possible, even if at a regional scale, to fulfil "[T]he idea that actors can share values, norms, and symbols that provide a social identity, and engage in various interactions in myriad spheres that reflect long-term interest, diffuse reciprocity, and trust" (Adler and Barnett, 1998, p. 3).

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7   Regarding the subcriteria of decision-making, the Article addresses only the formal decision-making procedures. According to Kaunert and Léonard (2012, p. 426), "it is not sufficient to only observe the formal decision-making rules in order to determine whether an area of security policy is governed intergovernmentally or supranationally, or by a mixture of both". But the fact is that the binding decisions are adopted through those procedures, whether ordinary or special.

Countering centuries of inter-state conflict, the European states have built a community in which there is "a real assurance that the members of that community will not fight each other physically, but will settle their disputes in some other way" (Karl Deutsch, quoted in Adler and Barnett, 1998, p. 6). Set on "an institutional and societal transnational base" (Ole Waever quoted in Adler and Barnett, 1998, p. 6) and having a structural common interest in keeping inter-state peace and security, the relations among Member States have been characterised by mutual trust and predictability.

Internal pacification had a spill over effect on the external area. Different policies have contributed to international security and stability, especially, on the one hand, the enlargement policy that extended the security community to new States and supports the transition of candidate States and, on the other hand, the development cooperation policy which is based upon the security-development nexus.

In a first phase, an implicit security actor was built, later evolving to the creation and consolidation of an expansive security community that favoured the use of non-security means. The end of the Cold War, the implosion of the Soviet Union, the decreased American presence in Europe and the expansion of the (widened and deepened) security agenda, created the opportunity for the actor's upgrade to a new stage. The weaknesses of its actions in neighbouring intra-state conflict situations (Balkans) and the concern with the transnational threats in an internally borderless market catalysed the clarification of the security actor thanks to the introduction of the Common Foreign and Security Policy (second pillar) and the police and judicial cooperation in criminal matters (third pillar)[8]. This explicitness was reinforced by the Amsterdam Treaty with the formalization of the actor's military (and civilian) component (ESDP) in the second pillar's framework, the specialisation of the third pillar and the externalisation of 'internal security' also within this pillar's framework.

The trace towards a comprehensive approach is connected with EU international actorness, more specifically with the imperative of coherence (horizontal policy and institutional coordination at European level) and consistency (vertical coordination between the European and Member States levels) in EU international presence. In the security domain, early initiatives regarding the fight against organised crime, a security challenge prioritized by the creation of an European internal market, required interpillars (3rd and 1st pillars) coordination[9]; the improved role of the Union in conflict prevention demanded interpillars (2nd and 1st pillars) coordination[10].

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8   In the Maastricht Treaty, the third pillar (Justice and Home Affairs) concerned also cooperation in the fields of immigration and asylum.

9   See recommendation 6 of the Action Plan to Combat Organised Crime (Adopted by the Council on 28 April 1997) regarding the fight against corruption.

10   For the prevention of conflicts, peacebuilding and structural stability contributed several policies domains from the 1st (trade, finance, development, environmental policies) and 2nd pillars (CFSP/ESDP).

The upgrade from interpillarisation to cross-pillarisation came from the need to fight the complex threat of terrorism after the 9/11. The materialization of the threat, firstly in the US and then in EU Member States, inaugurated a new stage in the actor's construction, tempering the fragmented pillarisation: "The European Union will intensify its commitment against terrorism through a coordinated and inter-disciplinary approach that will incorporate all of the Union's policies" (European Council, 2001, p. 1). Although the focus of the European fight was placed on the police and judicial instruments, the complexity of the threat justified a cross-pillar approach underlined by the four axis – prevention, protection, pursuit, response – of the Counter-Terrorism Strategy (Council of the EU, 2005). The coordination between the pillars concerning security previously required both by conflict prevention (1995) and by the externalisation of cooperation in the 'internal security' realm (1999), reached a new level by contemplating the three pillars simultaneously – cross-pillar coordination. In 2004, the 'Conceptual Framework' (European Council, 2004) countered the European legacy to fight terrorism with judicial and police instruments, and declared for the first time the possibility of using ESDP including internally (internalization of an external policy).

Since this period, the EU narrative and practices on Comprehensive Approach have been applied to several security problems such as crises and conflicts[11][12] (from prevention to peabuilding), organised crime[13], piracy[14], cybersecurity[15], failed sta-

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11 "The ideas and principles governing the comprehensive approach have yet to become, systematically, the guiding principles for EU external action across all areas, in particular in relation to conflict prevention and crisis resolution" (High Representative and European Commission, 2013).

12 See annex 4 ("Overview of How Different Instruments can be Combined to Provide a Comprehensive Package of Crisis Assistance") of "Civilian Instruments for EU Crisis Management" (European Commission, April 2003).

13 "The high level of safety in the area of freedom, security and justice presupposes an efficient and comprehensive approach in the fight against all forms of crime" (The Prevention and Control of Organised Crime: a European Union Strategy for the Beginning of the New Millennium, 2000, [online], available at http://publications.europa.eu/resource/cellar/f3b0c604-969c-4234-86d8-0213e3baa4a4.0006.02/DOC_1.

14 "While bearing all aspects of organised crime, piracy is a complex issue that can only be overcome by combining political and diplomatic efforts with military and legal action, development assistance and strong international coordination. With all these tools at its disposal, the European Union (EU) is in a unique position to contribute to international efforts, and addresses that challenge through a 'comprehensive approach' tackling both current symptoms and root causes of the problem." [online], available at http://eeas.europa.eu/piracy/index_en.htm). "Addressing the adverse effects of piracy through the range of relevant instruments and of other forms of organised crime (e.g. trafficking of humans, weapons and drugs), of terrorism but also the effects of irregular migration – all offshoots of poverty and insecurity in the region." (Council Conclusions on the Horn of Africa, 3124th Foreign Affairs Council meeting, Brussels, 14 November 2011).

15 "Due to the potential or actual borderless nature of the risks, an effective national response would often require EU-level involvement. To address cybersecurity in a comprehensive fashion, activi-

tes[16], trafficking in human beings[17], radicalisation[18], hybrid threats[19]. Differently from NATO, the EU approach is not restricted to the civil-military coordination, and, distinctly from UN, surpasses the security-development nexus. It is a holistic perspective to deal with "wicked" security problems, from conflicts and crises to cyberthreats, from external to internal and cross-border challenges.

The first document presenting the EU's 'security doctrine' confirmed this comprehensive tendency: a holistic security concept, an interdependence of threats (threats dynamics/'threat multiplier'), the security nexuses (security-development; internal-external security) (Brandão, 2015). The European Security Strategy (European Council 2003) corroborated yet another relevant change in the actor's discourse:

> "It stands for a discursive turn in the sense that the very theme of (external) security is no longer off-limits to the EU in the way it traditionally used to be. (…)' Whereas the EU previously pertained to security in a rather indirect manner and did so mainly through its structural essence by providing a unifying centre rather than appearing itself explicitly as a securitizing agent vis-à-vis the external environment, the new doctrine seems to be part of efforts that aim at bolstering the Union's actorness on the international scene." (Joenniemi, 2007, p. 136).

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ties should span across three key pillars– NIS, law enforcement, and defence – which also operate within different legal frameworks" (Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Cybersecurity Strategy of the European Union: An Open, Safe and Secure Cyberspace JOIN/2013/ 1 final).

16 "The European Community (…) will develop a comprehensive approach to state fragility, conflict, natural disasters and other types of crises" (Council, Representatives of the Representatives of the Member States European Parliament and Commission, European Consensus on Development, 2005)

17 "[EU Anti-trafficking Coordinator] tasks include addressing the urgent need to ensure consistent and coordinated strategic planning at EU level and with international organisations and third countries, to address this issue in a comprehensive manner." (Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – *The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016* – COM/2012/286 final).

18 "The European Council of 12 February 2015 at which Heads of State and Government called for a comprehensive approach, including initiatives regarding social integration, among others, which are of great importance to prevent violent radicalisation" (Conclusions of the Council and of the Representatives of the Governments of the Member States, meeting within the Council, on the role of the youth sector in an integrated and cross-sectoral approach to preventing and combating violent radicalisation of young people, 14 June 2016)

19 "A holistic approach that will enable the EU, in coordination with Member States, to specifically counter threats of a hybrid nature by creating synergies between all relevant instruments and fostering close cooperation between all relevant actors" (Joint Communication to the European Parliament and the Council Joint Framework on Countering Hybrid Threats a European Union Response JOIN/2016/018 final).

In the same line, the first EU Internal Security Strategy (Council of the EU, 2010), appealed to a holistic concept of internal security, a comprehensive approach to deal with the common threats and the interdependence between the internal and external components of security. *A posteriori*, the first document to clarify the common understanding of 'comprehensive approach' (to external conflicts and crises) was only adopted in 2013 followed by an Action Plan in 2015[20]: "Comprehensiveness refers not only to the joined-up deployment of EU instruments and resources, but also to the shared responsibility of EU-level actors and Member States" (High Representative, 2013, p. 3). The updated strategies and priorities in the security area (European Commission, 2015; European Council, 2016) consolidated this comprehensive trend[21].

In order to understand the CA (in the security field) in its complete spectrum, it is worth considering also 'the why'. The literature on the issue advances two main arguments. The pragmatic argument underlines the need to avoid duplication and promote synergies, considering the co-dependency between civil and military security (Rintakoski and Autti, 2008). The political argument demonstrates that the European Union uses the CA narrative to show its positive uniqueness and differentiation as a global security actor (Germond, McEnery and Marchi, 2016; Chappell, Mawdsley and Petrov, 2016). In addition, it should be stressed that the CA trend has been favoured by mutually reinforcing contextual, legal and institutional factors. The Post-Cold War environment has been characterized by complex multidimensional and cross-border security problems and a broad understanding of security in terms of threats, security objects, security providers and instruments (multissectorial and multilevel security). This widener/deepener perspective has also been nourished by the security nexuses narrative and practices (internal-exter-

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20 Council of the EU, 2015. Joint Staff Working Document – *Taking forward the EU's Comprehensive Approach to External Conflict and Crises – Action Plan 2015* (7913/15).

21 "We need a common, comprehensive and consistent EU global strategy" (High Representative, Strategic Review – *The European Union in a Changing Global Environment* – Executive Summary, 2015); "The EU response must therefore be comprehensive and based on a coherent set of actions combining the internal and external dimensions, to further reinforce links between Justice and Home Affairs and Common Security and Defence Policy" (European Commission, "The European Security Agenda", COM/2015/185); "All the dimensions of a Europe that protects its citizens and offers effective rights to people inside and outside the Union are interlinked. Success or failure in one field depends on performance in other fields as well as on synergies with related policy areas" (Strategic Guidelines for the Area of Freedom, Security and Justice, in: European Council Conclusions, 26/27 June 2014); "The European Union and its Member States can bring to the international stage the unique ability to combine, in a consistent manner, policies and tools ranging from diplomacy, security and defence to finance, trade, development and justice. Further improving the efficiency and effectiveness of this EU Comprehensive Approach" (European Council Conclusions, 19/20 December 2013).

nal security, civil-military security, development-security, among others). In legal terms, the combined use of instruments from different pillars to fight against common threats and, most significantly, the changes inserted by the Lisbon Treaty (EU legal status, the end of the pillars structure, the transference of internal security to the TFEU, the High Representative as member of both the Council and Commission) created the Treaty basis for the CA. Finally, regarding the institutional dimension, it is manifest the interest of the Commission in promoting the CA also in the security domain. In order to reverse an historical absence from this sensitive domain, the Commission pushes for the combination of multiple instruments to face complex security problems, particularly those from policy areas in which the institution has expertise and influence.

The Lisbon Treaty: Advances and Ambiguities in the Security Domain
Similarly to previous treaties, the Lisbon Treaty ensured continuity, formalised actual amendments and introduced innovative elements whose scope can only be perceived as they are implemented. Reaffirming the objectives of making the European Union institutionally more efficient, closer to the citizen, more efficient and coherent in external action, it introduced a goal concerning global challenges (Portugal, 2007).

In this reforming context, the CSDP and, particularly, the 'internal security', stood out as the most dynamic areas of the last revision. Before analysing specific changes, three transversal changes that also have implications in the security domain should be highlighted.

First, the Lisbon Treaty ended the dual (EC/EU) system in force since 1993 that penalized the Union's action capacity and its external recognition. Endowed with unique legal personality[22], EU assumes the external representation, and it is capable of celebrating treaties and of participating in International Organisations. This means that, for the first time, CFSP/CSDP and 'internal security' evolve in the framework of an International Organisation under International Law. Beyond the legal meaning, Solana underlined the political importance of this change that facilitates the recognition, visibility and readability of the Union: "it would be easier for third countries to understand the EU without the complication of dealing with, and sometimes signing agreements with, different entities." (United Kingdom, 2008a, p. 33).

Second, the Treaty overcame, if only on the surface, the Thatcherian pillar matrix, coming closer to the tree-like Delors matrix and consecrating *de jure* the tendency initiated by the *de facto* cross-pillarisation, namely in realms such as external relations, security and the environment benefiting the actor's coherence and efficiency.

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22   "The Union shall have legal personality" (Article 47 of the TEU).

The policies of the former second and third pillars were brought under the jurisdiction of a single entity; however, we can state that there subsists a disguised pillarisation, namely concerning the decision-making, with implications in the realms of external action and security. In fact, the CFSP (and the CSDP) maintains a separate legal character[23] that safeguards its intergovernmental nature. Concerning the Commission's right of initiative, it is restricted to the Union's High Representative for Foreign Affairs and Security Policy:

> "Through its creation of a new HR (who partly represents the Commission), the Lisbon Treaty has elevated the Commission's voice in CFSP. However, whereas in the current EU Treaty, the Commission has the right to submit proposals to the Council (current EU treaty, Article 20, paragraph 1) and was "fully associated" with CFSP (current EU treaty, Article 18, paragraph 4), under the Lisbon Treaty it will lose this right – this now being associated solely with the High Representative" (Daghan, 2008, p. 3).

The CFSP's specificity also justifies the CSDP exclusion from the scope of Article 352 of the TFEU (Wessels and Franziska, 2008). Furthermore, it should be noted that, contrary to the simplification established by the Constitutional Treaty, the above mentioned domains are under the aegis of both treaties. So, concerning the security domain, the CFSP and the CSDP remain in the European Union Treaty (TEU), whilst the 'internal security' was transferred to the Treaty on the Functioning of the European Union (TFEU).

Finally, the creation of the posts of European Council President and High Representative intends to contribute to the inter-institutional and inter-policies coordination in a context of further continuity. The innovative formula associated to the European Union's institutional complexity and the absence of a clear division of competence generates "role conflicts between the President of the European Council and the High Representative" (Wessels and Bopp, 2008, p. 18).

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23 "The common foreign and security policy is subject to specific rules and procedures. It shall be defined and implemented by the European Council and the Council acting unanimously, except where the Treaties provide otherwise. The adoption of legislative acts shall be excluded. The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by Member States, in accordance with the Treaties. The specific role of the European Parliament and of the Commission in this area is defined by the Treaties. The Court of Justice of the European Union shall not have jurisdiction with respect to these provisions, with the exception of its jurisdiction to monitor compliance with Article 40 of this Treaty and to review the legality of certain decisions as provided for by the second paragraph of Article 275 of the Treaty on the Functioning of the European Union" (Article 24 of the TEU).

CFSP/CSDP

The inherited concern with the coherence of the international actor justifies the text defining the principles and goals of the Union's external action[24] that connects the two treaties (TEU and TFEU). Having safeguarded the intergovernmental nature of the Common Foreign and Security Policy, this was the formula that was found to promote the unity (principles and objectives) in diversity (of the policies).

The main change in the realm of the CFSP was the redefinition of the post of the High Representative for Foreign Affairs and Security Policy, the Council's face for the CFSP and, simultaneously, Vice-President of the Commission for Foreign Relations, who also presides over the Council of Foreign Affairs, conducts the foreign policy and the common security policy and represents the Union in the international scene in matters pertaining to the CFSP. When an EU common position is approved on "a theme that is on the agenda of the United Nations Security Council, the Member States that have a seat in it ask that the High Representative be invited to present the Union's position" (Article 34 of the TEU). The High Representative is supported by the new diplomatic service – European External Action Service (Article 27, nº3 of the TEU)[25] – comprising officials from the Council, the Commission and the Member States that, by overcoming the old dual structure of the first and second pillars, intends to contribute to the EU's external coherence and visibility, countering the parallel and, sometimes, conflicting 'diplomacies' of the Commission and the Council.

Along the lines of previous revisions, the Treaty confirmed the controlled extension of majority voting in the Council, from now on also applicable to the approval of proposals presented by the High Representative (Article 31, nº2 of the TEU) with the possibility of extending its use being left open (Article 31, nº3 of the TEU).

The constructive ambiguity which has emerged as a tendency of the process of European integration, explains some of the opposite readings of the Treaty as well as the efforts to tone the opposites:

> "They [the CFSP provisions of the Lisbon Treaty] could be interpreted as a major step forward in the direction of a strengthened, more coherent and more effective international actor with more supranational elements; but they may also be seen as demonstrating an ever-refined mode of 'rationalised intergovernmentalism'. After

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24 See: nº1 and nº2, Article 21 of the TEU (Title V "General provisions on the Union's external action and specific provisions on the Common Foreign and Security Policy"); Article 205 of the TEU (Part V "The Union's external action", Title I "General provisions on the Union's external action").

25 See Council of the EU (2009) and Rettman (2010).

an in-depth analysis of the ideas and norms contained in the new treaty, the institutions and the instruments, the authors find more evidence for the second interpretation, but also traces for a 'ratched fusion' as a third alternative explanation." (Wessels and Bopp, 2008)

The ESDP, now designated Common Security and Defence Policy (CSDP), illustrates the above mentioned trilogy: continuity of what is essential, *de jure* statement of *de facto* situations and controlled innovation. The continuity is patent in the policy's intergovernmental nature, as well as, in reaffirming the CSDP as an integral part of the CFSP and in the will to build "a common defence policy that may lead to a common defence" (Article 24, nº1 of the TEU).

The enlargement of the Petersberg missions advanced by the Thessaloniki European Council, by the Headline Goal 2010 and by the European Security Strategy, has a legal base[26] and a 'solidarity clause' in case of a terrorist attack or a natural or human made catastrophe (Article 222 of the TFEU) that stipulates the use of "all the instruments at its disposal, including the military resources made available by the Member States". The European Defence Agency, established by the Council in 2004[27], is now formally part of the legal Framework of the Common Security and Defence Policy (Article 42, nº3 and 45 of the TEU).

Three innovative elements deserve a special reference. First, the flexibility of cooperation in the defence realm in three different ways or processes: permanent structured cooperation[28] open to States that fulfil 'higher criteria'[29], aimed at participating in the major European equipment programmes, organising multinational forces, forwarding combat units available for immediate action; reinforced cooperation among a minimum of nine States; an *ad hoc* cooperation delegating a specific mission on a group of States (Article 42, nº5 and 44 of the TEU) which, according to Gerrard Quille (2008, p. 6), could be shaped as a multinational force or as a Battle-

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26 Article 43 of the TEU: "joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation. All these tasks may contribute to the fight against terrorism, including by supporting third countries in combating terrorism in their territories".

27 See Council Regulation (EC) n°2007/2004 of 26 October 2004, establishing a European Agency for the Management of Operational Cooperation at the External Borders.

28 See the nº6 of Article 42 and Article nº46 of the TEU. At the Informal Meeting of the Defense Policy Directors (Madrid, 19-20 March) Spanish Presidency presented its goals for defense matters and debated issues concerning the implementation of the Lisbon Treaty. The meeting initiated also the debate about Permanent Structured Cooperation (España, Gobierno, 2010).

29 See Protocol (nº10) on Permanent structured cooperation established by Article 42 of the Treaty on European Union.

group. At this level it is also possible to find dual effects: on the one hand, conditions have been created to facilitate the development of European cooperation in the sensitive realm of defence; on the other hand, the eventual implementation of a permanent structured cooperation between the big countries could result in a 'two-speed Europe'.

The second novelty is the 'mutual defence clause' binding the states to help and assist a Member State which has been the target of an armed aggression on its territory (Article 42, nº7 of the TEU) This notwithstanding and in consonance with the 'civil' nature of the EU, and unlike NATO's defence clause, it does not specify the resort to the use of armed force.

Finally, the decision-making process has become more agile through the introduction of qualified majority voting (establishment of a permanent structured cooperation) and the funding of missions thanks to the implementation of procedures that guarantee a quick access to the community budget[30] and to the creation of a fund made of contributions from the States[31] to finance preparatory activities of missions that cannot be included in the Union budget (Article 41, nº3 of the TEU).

The dynamism of the young CSDP can be interpreted as "a greater willingness by the Member States to develop a 'military arm' of the EU" (Daghan, 2008, p. 4). However, it should be noted that its development will take place in the (controlled) framework of intergovernmental cooperation and that NATO remains the "foundation of collective defence" (of its Member States) and "the appropriate forum to fulfil it" (Article 42, nº7 of the TEU). To this, accrues the known limitations of resources, as well as the confirmed tendency for the predominance of civilian missions, both of which condition the progress of the military component. Finally, the enlargement, the diversification of missions and the growing number of mixed (civilian/military) missions, will make the need for a coherent comprehensive security actor more pressing.

'Internal Security'

The issues pertaining to 'internal security', formerly under the aegis of the third pillar, were transferred to the TFEU and moved into title IV, dedicated to the "Area

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30 "The Council shall adopt a decision establishing the specific procedures for guaranteeing rapid access to appropriations in the Union budget for urgent financing of initiatives in the framework of the common foreign and security policy, and in particular for preparatory activities for the tasks referred to in Article 42(1) and Article 43. It shall act after consulting the European Parliament" (nº3, Article 41 of the TEU).

31 Similar to *Athena* mechanism.

of Freedom, Security and Justice" (AFSJ)[32], constituting one of eleven areas of shared competence.[33]

The 'communitarisation' of the third pillar is considered one of the most innovative transformations of the Treaty[34]: adoption of regulations, directives and decisions, according to the community method (ordinary legislative procedure and by qualified majority, based on proposals from the Commission); control of the implementation of rules by the Commission and by the Court of Justice; EU representation by the Commission in international relations and negotiations. This change can be explained by the compensatory effect of the market opening that had already been at the origin of the formalisation of JHA cooperation by the Maastricht Treaty, which was intensified after 09/11.

Bringing together issues concerning 'internal security' and immigration and asylum under the same title (title V of the TFEU), emulating the Maastricht model, this time in a community framework, confirms a (negative) securitising movement only (formally) interrupted by the Amsterdam Treaty (Brandão, 2007, pp. 57-86). This movement is reinforced by the security logic of the external borders, as demonstrated by two of the objectives set for these policies: "carrying out checks on persons and efficient monitoring of the crossing of external borders"; "the gradual introduction of an integrated management system for external borders" (Article 77, n°1 of the TFEU)[35].

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32 Title V ("Area of freedom, security and justice") substitutes title VI of the TEC ("Visas, asylum, immigration and other policies related to free movement of persons"). Besides of chapters on "Policies on borders checks, asylum and immigration" (chapter 2) and "Judicial cooperation in civil matters" (chapter 3), it also includes chapters 4 (Judicial cooperation in criminal matters") and 5 (Police cooperation).

33 Internal market; social policy, for the aspects defined in this Treaty; economic, social and territorial cohesion; agriculture and fisheries, excluding the conservation of marine biological resources; environment; consumer protection; transport; trans-European networks; energy; area of freedom, security and justice; common safety concerns in public health matters (Article 4 of the TFEU).

34 "(..) the powers of the Commission under Article 258 of the Treaty on the Functioning of the European Union shall not be applicable and the powers of the Court of Justice of the European Union under Title VI of the Treaty on European Union, in the version in force before the entry into force of the Treaty of Lisbon, shall remain the same, including where they have been accepted under Article 35(2) of the said Treaty on European Union" (Article 10, Protocol n°36).

35 The Treaty formalises a comprehensive concept of 'integrated border security system', defined by the JHA Council in December 2006: "Frontex promotes a pan European model of Integrated Border Security, which consists not only of border controls but also other important elements. The first tier of the model is formed by exchange of information and cooperation between Member States, immigration and repatriation. The second tier is represented by border and customs control including surveillance, border checks and risk analysis. The third tier is linked with cooperation with border guards, customs and police authorities in neighbouring coun-

Aiming at reinforcing operational cooperation in the 'internal security' domain, the Standing Committee on Operational Cooperation on Internal Security (COSI) was set up within the Council, "in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union" (Article 71 of the TFEU). This innovation was justified by the need to counter the efficiency and transparency deficit of operational cooperation, all the more urgent in the context of the anti-terrorist fight. Underlying the initial proposal of the new structure were the principle of clear separation between legislative and operational tasks[36] and the overcoming of the pillarisation of 'internal security'[37].

In the framework of the previous AFSJ multi-annual programme, one of the priority tasks of the new organism was the conception, follow-up and implementation of a global internal security strategy: "terrorism and organised crime, drug trafficking, corruption, traffic of human beings, people smuggling and arms trafficking, among others, keep on threatening the EU's internal security. The spread of cross-border criminality has become an urgent challenge demanding a clear and global response." The Internal Security Strategy "should take into account the External Security Strategy, due to "the existing inter-relation that exists between internal security and the external dimension of threats" (Conselho da União Europeia, 2009, p. 36). Having overcome the British resistance, the Lisbon Treaty provided for the possibility of establishing a 'European Public Prosecutor's Office' (Article 86 of the TFEU) to fight crimes that may jeopardize the Union's financial interests.

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tries. The fourth tier is connected with cooperation with third countries including common activities" Frontex (n.d). External border security is historically related with internal market (see: Commission of European Communities, 1988. "Completing the Internal Market: an Area without Internal Frontiers" (COM (88) 350); "Communication of the Commission to the Council on the Abolition of Controls of Persons at Intra-Community Borders" (COM (1988) 640 final, 1988). The Amesterdam Treaty attributed competences to EC (first pillar) regarding external border controls (Article 62 and 66 of the TEC). In 2001, a 'European Border Police' proposal was presented by Germany, France, Italy, Spain and Belgium, and rejected by UK and other Member States. In 2002, the European Commission approved in 2003, the European Commission approved the communication "Towards integrated management of the external borders of the Member States of the European Union" [COM (2002) 233]. Frontex (Regulamentation (EC) nº 2004/2007) implemented "the concept of integrated border management". See also Frontex (2009).

36 See Bunyan (2003).

37 "Abolishing the pillars enables all the authorities concerned with 'internal security' to be covered for the first time, not merely police forces but also those responsible for customs and civil protection. The abolition of the pillars in this way will be welcomed by all practitioners who stress that cooperation must cover a broader field than merely police aspects in order to ensure internal security. The consequences of the 11 September attacks have shown the importance of mobilising all services and of cooperation between disciplines" (Secretariat of the European Convention, 2003).

Policy Differentiation in Security Matters: Differentiation against Comprehensive Approach?

For the purpose of our analysis, we intend to answer to both questions – "what powers are allocated to the central institutions" (Hix, 2007, p. 580) and how decision-making process works – in the security domain. In spite of the evidence that "politics, government, and policy-making now exist in many contexts either outside or beyond the classic Weberian state" (Badie and Birnbaum, 1983, quoted by Hix, 2007, p. 580) and that the state is no longer the only security actor, the first genuinely supranational governance system demonstrates the resilient centrality of the Westphalian actor in security matters.

The EU policy-making system is highly complex, also due to differentiation across policy domains. 'Policy differentiation' is understood as differentiated degree and nature of EU involvement and consequent differentiated policy-making and decision-making and associated power distribution among EU institutions across policy domains[38]. This is explained by the traditional tension between supranationalism and intergovernmentalism, European solidarity and state sovereignty, common interest and national interest(s), collective declaration and unilateral action. The case of security is relevant since the differentiation is present inside the same (broad) policy area (see table 1 and figure 1).

The Maastricht Treaty inserted the security policy area based in a pillarised structure. Although under "a single institutional framework" which should "ensure the consistency and the continuity of the activities" (Article C), the three pillars had relevant policy-making differences that affected the role of EU institutions, including the European Commission. Those differences were the result of the major distinction between community (1st pillar) and intergovernmental (2nd and 3rd pillars) decision-making methods and policy instruments. It should be notice that this separation between the Community and intergovernmental instruments had been a trend since the times of EPC and due to a French insistence (Duke, 2006).

In spite of the changes inserted by the Lisbon Treaty, the resilience of state power in security matters is still patent is several elements: special decision-making procedures; (Council/European Council) decisions by unanimity; legislative initiative by Member States; emergency breaks; exclusion of legislative acts; no obligation to apply decisions/joint actions (through abstention); exclusion of political and/or jurisdictional control; implementation of decisions by the Member States.

Overall, the external security is under the intergovernmental method (special procedure) and internal security follows the community method (ordinary legislative

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38 Alternative meanings of the concept: differentiation of involvement in EU policies across Member States ('flexible integration'); functional or sectorial differentiation across policies. It is not the case for the purpose of this article.

procedure) (see table 2). However a more attentive look reveals constructive ambiguities in both security components. The blurring of the dichotomy the two decision-making methods is a general trend as noted by Antonio Missiroli (2011, p. 1): "[S]pecially after the entry into force and subsequent implementation of the Lisbon Treaty, the traditional distinction (and opposition) between the so-called 'community' and 'inter-governmental' methods in EU policy-making is less and less relevant. Most common policies entail a 'mix' between them and different degrees of mutual contamination".

Regarding the CSDP, the general guidelines defined by the European Council are implemented by the Council. This institution also exercises political control over CDSP missions. The preparation of decisions involves several actors – ministers, diplomats, staff officers and the High Representative. The later also ensures the coherence of EU external action, make proposals for the development of the policy and implement decisions adopted by the European Council and the Council. The decision-making regarding the launching of CSDP's crisis management operations is even more specific considering its casuistic[39] nature. The proposal may come from the High Representative or Member State[40]. The Council, supported by its specialized bodies, is the decision-maker: consensus on the interest of engaging in a mission considering its political, strategic and capability implications (Political and Security Committee); approval of the Crisis Management Concept, of the Concept of Operations and of the Operation Plan; decision to take action; approval of the legal decision to launch the operation (Council decision [year]/[serial number]/ CFSP on the launching of a civilian/military mission).

The centrality of the Council, the unanimity rule (for all CSDP decisions) and the *ad hoc* state participation in the missions, among other features, demonstrate the intergovernmental nature of cooperation in the realm of security and defence. In spite of this, it is possible to find an "emerging pattern begins to look more like intergovernmental supranationalism" (Howorth, 2013, p. 449) since "decisions in security and defense policy are very often shaped and even made by small groups of relatively well-socialized officials in the key committees acting in a mode which is as close to supranational as it is to inter-governmental" (Idem, p. 436): the socialization of EU bodies' members and the consensus construct promote a *de facto* supranational move. According with Christian Kaunert and Sarah Léonard, "the EU has entered into a phase of supranational governance in the area of security" through a two-

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39 The launching of a CSDP mission does not obey to a rigid procedure.

40 Political and Security Committee (PSC), the main preparatory and management body for CSDP missions; European Union Military Committee (EUMC); Civilian Aspects of Crisis Management (CIVCOM); Crisis Management and Planning Directorate (CMPD); European Union Military Staff (EUMS); Civilian Planning and Conduct Capability (CPCC).

stage process: "(1) cross-border security issues generate greater demand for EU legislation, which (2) supranational organisations supply" (Kaunert and Leónard, 2012, p. 426).

As mentioned before, the Lisbon Treaty 'communitarised' the field of 'internal security'. For the first time, the ordinary legislative procedure (Article 87, paragraph 1, of the TFEU) based in the joint decision of the Council and the European Parliament is applied to a security domain, combined with the qualified majority voting in the Council. However there is a special procedure (Article 87, paragraph 3, of the TFEU) for operational police cooperation through which the Council decide by unanimous voting after consulting the European Parliament.

In fact, it remains clouds of intergovernmentalism in the communitarisation of internal security: the right of initiative is not exclusive of the Commission, since a quarter of the Member States can put forward a legislative proposal (Article 76 of the TFEU); there is an exemption to the judiciary control laid down in Article 276 of the TFEU; the unanimous voting in the Council and the consultation procedure are applicable to certain matters[41]; "the strategic orientations of the legislative and operational programme" are defined by the European Council (Article 68 of the TFEU); the *opt-out* possibility[42] and the 'emergency brake' (Article 82, nº3 of the TFEU).

Beyond those ambiguities and blurring dichotomies, the true is that the two components of security follow different decision-making procedures based on a diverse distribution of powers among the central institutions. Moreover the respective outputs are distinct in terms of its legal nature (see table 3). This differentiation constitutes a puzzlement considering the European ambition of global (in terms of geographical reach) comprehensive and coherent security actorness.

Final Remarks

The post-Cold War period demonstrated that the State is not the only referent object of security: it is not the only target of threats, nor the sole 'supplier' of security. The different referent objects face multilevel and multissectorial threats. Conflicts are predominantly intra-state and tend to potentiate transnational threats. Therefore, the post-Cold War (in)security environment requires a European governance system that combines a diversity of actors, policies and tools.

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41 Operational police cooperation (Article 87, nº3 of the TFUE), passports, identity cards, residence permits (Article 77, nº3 of the TFUE), establish a European Public Prosecutor's Office (Article 86, nº1 of the TFUE).

42 See: Protocol (nº21) on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice; Protocol (nº22) on the position of Denmark. "While the Lisbon Treaty, for the vast majority of Member States, has the effect of 'homogenising' a communitarised Area of Freedom, Security and Justice, the position of the other Member States, is made only more anomalous" (Brendan, 2008, p. 1).

In a Cold War context, the EEC successfully faced the Westphalian challenge of inter-state conflict through non-security means and the post-Westphalian institutionalism. The change in the post-Cold War security environment (opportunity) favoured the explicitness of the security actorness of the European Union. In the post-Cold War, the European Union asserts itself as a comprehensive and multifunctional security actor. A post-Westphalian actor which distinguishes itself from intergovernmental international organizations in terms of its emergence (integration), evolution (deepening and enlargement) and nature (combines supranational, intergovernmental, transgovernmental and transnational features) and, more specifically, distances itself from intergovernmental security organizations in three crucial aspects: it is a polity (although *sui generis*); it has the competence and the means to fight a diversity of threats in the security spectrum; it is not restricted to the security domain, being able to use non-security tools to the advantage of that domain.

It is perceivable that there is a progressive institutionalisation of the security actor whose performance has positive outputs – security community, extension of the community to new states, contribution to security and stability in the neighbouring areas, intensifying cooperation in the fight against transnational threats:

> "While the role of individual EU Member States remains critical and many states exercise considerable freedom of action outside the EU on security matters (…), the EU nonetheless remains the aspiration and focus of efforts to meet jointly the tasks of security governance that cannot be net alone or only met poorly by any individual states. Moreover, the EU serves as an autonomous security actor as well as a clearing station for Member State efforts to cope with the array of security challenges" (Kirshner and Sperling, 2007, p. 20).

The post-post Cold War created the opportunity for the implementation of a comprehensive and multidimensional security strategy. The fight against transnational terrorism had a relevant impact on the EU security actorness: upgrading of the security agenda and expansion of the security rationale in external relations; importance of transnational threats to security and consequent aware of the potential capacity of EU by coordinating and combining means and policies; cross-pillar/comprehensive security approach; externalization of 'internal security' cooperation; internalization of CSDP; EU presence as a security actor.

The Lisbon Treaty, like the preceding ones, derived from a compromise among different perspectives on the European integration process, as well as from the historic tension between active solidarity and state sovereignty, which explains the constructive ambiguity(ies). The latest revision of the Founding Treaties confirmed the tendency towards the actor's gradualist construction, associated to the prioritization of security issues on the European agenda. The Treaty attributed legal status to EU, took a 'small step' to overcome the pillarisation, transferred cooperation on

internal security, the TFEU, introduced amendments in the continued search for the Union's external coherence and proved the dynamism of the policies of the previous second and third pillars. These changes constitute 'little big' steps that facilitate the European Union's comprehensive action in the security realm. However, the intergovernmental idiosyncrasies (unanimous Council decisions, emergency brakes, opt-outs, among others) remain in place and put the actor's efficiency at stake.

The European actor reproduced the Westphalian model based on the separation between the internal and external security dimensions, formalized through the pillar structure. The growing complexity of the security challenges called for inter-pillarisation in the 1990s and cross-pillarisation in the post-post-Cold War. These developments reasserted the European Union as a comprehensive and multi-functional security actor and, consequently, they intensified the coherence imperative. The issue of coherence initially arised associated to the Union's international actorness. In spite of the *de facto* cross-pillarisation in the realm of security and the assertion, recurrent in official documents, of the nexus between the external and the internal security components, the theme of the coherence of the security actorness is not explicitly conveyed in the Treaty. The 'end' of the pillars may in fact enhance the inter-policies coordination, but the hidden pillarisation combined with the *sui generis* communitarisation of (EU) internal security may contribute towards the differentiated progress concerning CFSP/CSDP to the detriment of the security actor's coherence. Thus, the bridge linking the external and internal dimensions of security has yet to be built.

The states and (security) IGO's demonstrated their limitations/lack of adaptation to the security challenges of the post-Cold War, namely the transboundary security problems, so the Union presents itself, also in this area, as a laboratory – a laboratory of the post-Westphalian security actorness and of the security governance in complex environments. The European narrative assumes a comprehensive approach that includes the internal-external security nexus, to deal with those security problems. This contrasts with policy differentiation between the two components of security, the 'Gordian Knot' of security governance – an ambitious action[43]; and an intractable problem[44] – that undermines the actor's coherence, consistency, efficiency and visibility.

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43 The 'Gordian Knot' Operation was the major, most expensive and most controversial Portuguese military operation during the colonial war.

44 "Turn him to any cause of policy,/The Gordian Knot of it he will unloose,/Familiar as his garter" (Shakespeare, Henry V, Act 1 Scene 1. 45-47).

Appendix

Table 1 – Actor's Powers in the Security Domain

Actors		Security Domain	Powers
States		External	– to put into effect the CFSP
		Internal	– legislative initiative (1/4 of the Member States)
EU Institutions	*EurC*	External	– to identify the Union's strategic interests, determine the objectives of and define general guidelines for the CFSP/CSDP – to define and implement the CFSP – [EC President] external representation of the Union on issues concerning its CFSP
		Internal	– to define the strategic guidelines for legislative and operational planning
	CEU	External	– to frame the CFSP and take the decisions necessary for defining and implementing it – [High Representative] to put into effect the CFSP – [High Representative] to submit to the Council proposals to the development of CFSP/CSDP carried out as mandated by the Council
		Internal	– adoption of legislative acts
	Com	External	– to propose policy developments – to ensure coordination of the civilian and military aspects of such tasks (acting under the authority of the Council and in close contact with the Political and Security Committee)
		Internal	– legislative initiative – political control
	EP	External	– to ask questions of the Council or make recommendations to it and to the High Representative – to be regularly consulted by the High Representative – to debate on progress in implementing the policy (twice a year)
		Internal	– adoption (with the Council) of legislative acts (except operational cooperation) – political control – to accept/reject international agreements (consent procedure)
	EUCJ	External	– no jurisdiction with the exception of monitoring compliance with Article 40 of this Treaty and reviewing the legality of certain decisions as provided for by the second paragraph of Article 275 of the TFEU
		Internal	– jurisdictional control (except operational cooperation – Article 276)

Legend: CSDP=Common Security and Defence Policy; CEU= Council of the European Union; CFSP=Common Foreign and Security Policy; EC= European Council; ECom= European Commission; EP=European Parliament; ES= External Security; EUCJ= European Union Court of Justice; IS=Internal Security; TEU=Treaty on the European Union; TFEU=Treaty on the Functioning of the European Union.

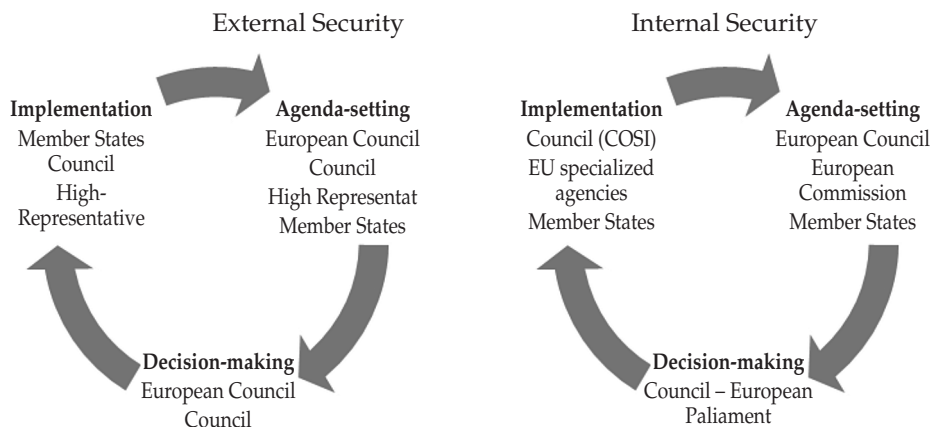**Figure 1** – Policy Cycle(s): External and Internal Security

External Security

Internal Security

Implementation
Member States
Council
High-
Representative

Agenda-setting
European Council
Council
High Representat
Member States

Implementation
Council (COSI)
EU specialized
agencies
Member States

Agenda-setting
European Council
European
Commission
Member States

Decision-making
European Council
Council

Decision-making
Council – European
Paliament

Table 2 – Decision-making in the Security Domain

External Security	Internal Security
Intergovernmental method	(*sui generis*) Community method
Specific rules and procedures – Proposals: High Representative; Council; Member States – Adoption: European Council; Council	Ordinary legislative procedure – Proposals: European Commission; 1/4 Member States – Adoption: Council and European Parliament
– Unanimity – decisions by the European Council and the Council	
– Constructive unanimity – abstention by a Member State (although it will not be obliged to apply the decision, it will accept that the decision commits the Union and will refrain from any action likely to conflict with or impede Union action based on that decision) – Qualified majority – decisions by the Council when defining a Union action or position on the basis of a decision or a specific request of the European Council.	Special legislative procedure [operational cooperation] – Adoption: Council after consulting the European Parliament – Qualified majority – Unanimity in certain matters

Table 3 – Outputs of the Security Domain

External Security	Internal Security
[no legislative acts]	[legislative acts]
– European Council – decisions (related to Union's strategic interests and objectives concerned with relations with a country/region or a theme) – Council – decisions (common position or joint action)	– regulations – directives – decisions

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