

Beyond Operation Sophia

What role for the military in migration policy?

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The EU's anti-trafficking and anti-smuggling naval operation in the Mediterranean, EU NAVFOR MED Sophia (Operation Sophia), is due to finish at the end of March and it is unclear whether or not it will be extended. The operation has had limited success due to its confused mandate and unrealistic expectations of what a military deployment can reasonably achieve in managing migration. The EU needs to reframe its overall approach to managing migration through the Mediterranean and strictly limit the roles assigned to the military to those it is suited to fulfil.

The ambiguity about Operation Sophia's future is partly the result of the deepening political conflict between member states over disembarkation of migrants saved at sea. Italy is refusing to allow migrants rescued by Operation Sophia to land at its ports—as originally stipulated in its mandate—leading other member states to question its future. The current political standoff is symptomatic of the underlying problems in the European Union's migration policy. Member states have been keen to externalise the conflict over migration in Europe without renegotiating a new internal solution. Thus the Dublin Regulation, according to which refugees need to seek asylum in the first EU country they reach, continues to apply—except for some instances in which member states found brief alternative settlements.

The end of Operation Sophia provides an opportunity to rethink what the military does to manage migration. This policy brief reviews the experience of the operation and proposes a more limited, but better defined future role for the military. However, greater clarity is also needed about who is ultimately in charge of migration policy and what the respective responsibilities of member states or the EU institutions should be. Member states flip-flop between wanting to hand over competence to the EU level and suspicion of EU solutions and agencies such as the Frontex border force. Against this backdrop, confusion in the mandates of military interventions have been damaging to overall policy coherence.

KEY INSIGHTS

EUROPE SHOULD LIMIT MILITARY ENGAGEMENT ON MIGRATION TO PROVIDING SECURE ENVIRONMENTS, CRISIS RESPONSE, AND CAPACITY BUILDING.

MANY OF THE TASKS UNDERTAKEN BY OPERATION SOPHIA ON MIGRATION CAN BE DELIVERED MORE EFFECTIVELY BY CIVILIAN ACTORS.

SOME OF OPERATION SOPHIA'S CURRENT FUNCTIONS SHOULD BE REPLACED BY A NEW CIVILIAN EU MISSION WITH A LAW ENFORCEMENT AND SEARCH AND RESCUE MANDATE TO ADDRESS MIGRATION THROUGH THE MEDITERRANEAN.

THE ROLE OF OPERATION SOPHIA

In 2015, member states resorted to military deployment with Operation Sophia in response to the increased migration flows triggered by the Syrian civil war. This came out of the perceived need for Europeans to be seen to 'do something'. The mission was given an ambitious mandate: to detect and monitor migration networks; to board, search, seize, and divert vessels suspected of being involved in human smuggling activities in international waters; to enter Libyan territorial waters to fulfil similar objectives; and to take necessary measures against vessels and assets, including operating on Libyan territory.

However, implementing the full mandate proved difficult. Beyond the normative concerns of involving the military in a 'soft issue' such as migration with personnel not adequately trained for humanitarian tasks or authorised to fulfil law enforcement tasks, the use

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of military assets could be seen as detracting from other European defence commitments. A specific challenge has been search and rescue missions (SAR): although not part of its mandate, vessels serving under Operation Sophia have had to fulfil SAR obligations under

international law. There are also limitations to fighting trafficking networks active on the Libyan mainland from the sea.

In response to some of these concerns, the operation shifted its priorities to intelligence gathering, maritime security, training of the Libyan Coast Guard, and surveillance of illegal trafficking of oil out of Libya. Through the Crime Information Cell, activated in the summer of 2018, Operation Sophia has become the key information sharing point working alongside two EU agencies, Europol and the European Border and Coast Guard Agency (Frontex).

LESSONS FROM FOUR YEARS OF OPERATION SOPHIA

Due to its swiftness, member states relied on this military deployment with little regard for the operational limitations that came with it. The multiple adjustments to Operation Sophia's mandate show that the use of the

military in dealing with migration has clear limitations, implying that the crisis response approach in 2015 was ill advised. Now after four years we can draw on the lessons learned from the operation and identify how Europe can better address the management of migration through the Mediterranean:

First, the use of the military in response to migration, smuggling, and trafficking activities has operational limitations and needs to be reconsidered. Due to the lack of authority on law enforcement, soldiers are unable to arrest traffickers. They also lack specific training to deal with humanitarian emergencies and trafficking victims.

Thus, a second lesson is that the military can only undertake a supportive role towards national and EU agencies working on law enforcement. The value added by the operation was that it provided a secure area for other actors on surveillance and information sharing. In regards to search and rescue, the vessels were able to support but not to run operations effectively themselves.

Third, this experience shows that future military involvement needs to be limited to crisis response and the provision of specific expertise to assist other agencies in setting up their operations. If the military is involved in the longer term, its role should be limited to information sharing and capacity building.

Fourth, the reality of migration in the Mediterranean meant that the mission became involved in search and rescue operations, although these are not part of its mandate. This de facto extension of the mandate has become politically contentious because of the conflict among member states over the disembarkation of those saved at sea. Thus there is a need for a comprehensive solution regarding search and rescue connected to a political settlement on disembarkation and resettlement.

A last lesson is the need to put an end to the uncoordinated approach to decision making on migration among member states and to break down the boundaries between initiatives under the Common Security and Defence Policy (CSDP) and those emanating from the area of Freedom Justice and Security (FSJ).

IMPLICATIONS FOR MIGRATION POLICY

The launch of Operation Sophia was part of a wider externalisation of migration policy which involved the military and reframed relationships with neighbouring countries. The difficulty of implementing Operation Sophia's original mandate on Libyan territory shows that the ambitions of some member states to address

migration primarily abroad is at odds with the sovereignty of its neighbours and, in some respects, also with international law.

Europe has had to realise that agreements on migration with third countries such as Turkey create uneasy relationships, which are likely to be even more difficult to maintain with fragile states in northern Africa and the Sahel. Following the haggling between member states over disembarkation, the [June 2018 Council conclusions](#) included a proposal of so-called “regional disembarkation platforms”. These would be established in North African countries to avoid disembarkation in the EU. This was, however, immediately rejected by the relevant states. This indicates that there is a limit to the scope for Europeans to outsource their migration policy to the neighbourhood, despite monetary incentives. Notwithstanding that collaboration with third countries—especially countries of origin and countries of transit—is necessary, Europe needs to prioritise its internal response.

There is also a need for a comprehensive solution to SAR and to resolve disputes around disembarkation. While they must respect obligations under international law, the military should not be expected to take a lead in SAR. However, the corollary is that civilian rescue operations have to be able to disembark those rescued. The migration crisis has abated, but irregular flows through the Mediterranean continue and there remains a high risk of casualties.

Europeans need to address the need for SAR operations directly rather than leaving it to ad hoc operations or even to civil society. Undeniably, this requires a considerable rethink by policymakers in Brussels and in the capitals of some member states capitals where search and rescue operations are still considered a pull factor for migrants. Despite these difficulties, a common approach would avoid wider migration policy being hijacked by single member states as is currently the case with the Italian government.

A broader question is how to integrate—and distinguish—the military with other means of dealing with migration. The launch of Operation Sophia seemed to reflect a reluctance to deploy Frontex. Yet much of what Operation Sophia delivered on migration, trafficking, and smuggling could be done just as effectively by a combination Frontex, national law enforcement, and coast guards. However, member states appear to want to exercise control of resources and to assert their sovereignty vis-à-vis an EU agency such as Frontex. It is characteristic of the uncoordinated way migration is approached. On the

one hand, member states want the EU to act on migration issues, but on the other, they want to retain control of their own borders.

RECOMMENDATIONS

Drawing on the challenges faced by Operation Sophia, the following would improve Europe’s ability to respond to migration through the Mediterranean and address both the internal and external political issues related to migration:

1. Future CSDP missions should play to the military’s strength and expertise and be geared towards supporting civilian actors.

- Future responsibilities should include crisis response and assistance in setting up systems for civilian actors to operate long term. This could include providing secure areas through surveillance and information sharing and setting up Mission Control Centres (MCCs) where necessary.

- European militaries can play a vital capacity building role in third countries. However, following the experience in Libya, greater attention must be given to the protection of rights and accountability in local institutions. Member states should designate EU agencies such as Frontex, Europol, and the European Union Agency for Asylum to lead on law enforcement and SAR in the Mediterranean. Such a new mission would include some military corps, depending on the participating member states.

GREATER CLARITY IS NEEDED ABOUT THE RESPECTIVE RESPONSIBILITIES OF MEMBER STATES AND EU INSTITUTIONS.

2. Because a renegotiation of the Dublin Regulation seems very unlikely, a specific political agreement directly linked to any new military mission to succeed Operation Sophia would be needed to establish the process for disembarkation and resettlement for those saved at sea.

3. Member states need to improve the coordination between foreign and security policies and those under the umbrella of and Justice and Home Affairs. Here particularly the work in the Council can be effective through, for example, coordinated or parallel meetings of relevant working groups. This could be led by the Political and Security Committee and the Standing Committee on Operational Cooperation on Internal Security.

FURTHER READINGS

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