



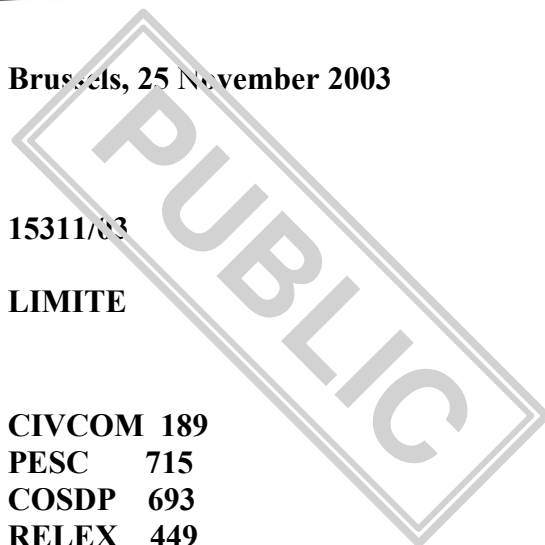
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NOTE

From : Secretariat
To : Delegations

Subject : EU Concept for Crisis Management Missions in the field of Civilian
Administration

Please find attached the document on “EU Concept for Crisis Management Missions in the field of Civilian Administration”, as agreed by the PSC on 25 November 2003.

LIST OF CONTENTS

A.	Reference documents	3
1.	Introduction	3
2.	Types of situations leading to a mission	5
3.	Objectives and mandate of an EU Civilian Administration mission	7
4.	Mission types	8
5.	Means and resources	11
6.	Horizontal issues	13
Annex I:	Description of functions in Crisis Management missions in the field of Civilian Administration	15
Annex II:	Administration of Local Communities	21
Annex III:	Electoral Services	26

A. Reference documents

- *Göteborg European Council Presidency Conclusions*
- *Basic guidelines for crisis management mission in the field of Civilian Administration (doc. 9282/02)*
- *Civilian Administration - Background information on experiences on Civilian Administration in international missions (doc. 11394/02)*
- *Table with information on Member States' current contributions of Civilian Administration experts to international mission (doc. 12099/1/02)*
- *Call for contributions in the field of Civilian Administration (doc. 13858/02)*

1. Introduction

The Feira European Council identified Civilian Administration as one of the four priority areas in the field of civilian crisis management where the EU should seek to enhance its capacity. In Göteborg, Member States agreed on the establishment of “a pool of experts able on a voluntary basis to take on assignments within Civilian Administration in the context of crisis management operations”. Furthermore, in Göteborg, a spectrum of functions considered relevant for crisis management operations were identified, namely:

- general administrative functions (including Civil registration, Registration of property, Elections/ appointments to political bodies, Taxation, Local administration, Customs Services);
- social functions (including Education, Social Services, Health and medical Services) and;
- infrastructure functions (including Water supply, Energy supply, Telecommunications, Permanent Infrastructure, Transport, Waste management).

In Göteborg it was also foreseen that Civilian Administration missions could be undertaken both for autonomous EU-led crisis management operations and operations led by international organisations such as the UN or OSCE.

In line with the work already undertaken for other civilian priority areas (namely Police and Rule of Law), the purpose of this document is to lay down a general understanding of the main principles that should be taken into account when planning and carrying out a Civilian Administration crisis management mission. Such a mission might, like the other priority areas of civilian crisis management, either be the sole element of an EU crisis management operation, or may be one component of a complex crisis management operation. The document also outlines situations that may lead the EU to launch a Civilian Administration crisis management mission, and the likely nature of the mission which corresponds to these different situations. The principles proposed are of a generic nature and must be adapted to each specific situation.

For the purpose of the current paper, the task for a Civilian Administration mission can be defined as substitution of, or substantial support to the strengthening of the most essential functions of a public administration in order to ensure that the key public services can be delivered. A Civilian Administration mission will typically be considered in the absence, or extreme weakness, of domestic institutions for delivering public services and the corresponding systems of judicial and political control.

The need for co-ordination between Civilian Administration and other crisis management components is a crucial aspect of any Civilian Administration intervention, in particular because the distinction between Civilian Administration and other EU priority areas may not always be easy to make. Indeed in certain previous international missions, a “Rule of Law” mission encompasses a Civilian Administration component and in some fora the terms are even used interchangeably. Even when separated, Civilian Administration and Rule of Law components are obviously mutually reinforcing, as the good functioning of the judicial and penal sector as well as law enforcement depends to a large extent on a reliable public administration and vice versa.

The planning and conduct of a civilian administration mission will have to take in account both prior EC and bilateral Member States’ assistance already existing in the mission area and the need for long term institution building support in order to ensure a coherent approach. Such an intervention should be conceived of as a transitional and relatively short-term operation, which establishes the foundations of future development of effective management under the leadership of the national authorities. There should be a smooth transition between the crisis management intervention and this longer term structural support.

2. Types of situations leading to a mission

Scenarios

The Civilian Administration mission would always be a response to a dysfunctional state apparatus, i.e. to situations where the malfunctioning of one or various sectors of the Civilian Administration has led to an incapacity to deliver essential public services and clearly undermines the overall stability of a country or region. When such a situation is identified, the EU may provide support through a Civilian Administration mission to carry out executive functions, in a strengthening function - to perform advisory, mentoring and monitoring tasks in support of national and local administrations and in most cases a combination of these two types. The mission will act in full respect of the mission's mandate, taking duly into account the principles of sovereignty and eventual full transition to local ownership.

There are three main types of scenarios in which a Civilian Administration mission could be envisaged. The scenarios should be seen as indicative, bearing in mind that real situations are unlikely to reflect any one of these exactly :

- ***failed states***: it refers to a situation (usually the aftermath of a civil war or of a long period of foreign occupation) where none of the basic infrastructures of the state are in place and therefore the international community is called upon to lead the (re)construction of the state. At least in an initial phase, the situation might require a high degree of substitution of national and local administration functions. Typically in such a scenario a Civilian Administration intervention would be part of a wider crisis management operation with an appropriate mandate from the United Nations and encompassing other civilian aspects, as well as military ones. The scenario of a failed state would also usually lead to a concerted action of the international community, led in most cases by the United Nations. This might mean that the EU response would be part of a wider international Civilian Administration mission, thus requiring the coordination between the EU and international organisations. The EU contribution could be in the
- form of a self-contained pillar for which the EU takes operational responsibility, or a contribution of capabilities to an operation led by an international organisation. The best examples of missions of this type would be the United Nations Mission in Kosovo (UNMIK) and the United Nations Transitional Administration in East Timor (UNTAET).

- **weak states**: corresponds to a situation where there is an overall disfunctioning of the state and where the risk of collapse of state structures is non-negligible. Another possibility is a situation where, for political reasons, the managerial level of public administration is removed and the international community is called upon to replace it, in order to avoid a power vacuum. The main difference in relation to the previous scenario is that the international community can still rely on existing structures to provide the basic public services. As in the previous scenario, the Civilian Administration intervention is likely to be accompanied by other types of missions or components, namely Rule of Law and Police.
- **non-functioning sectors**: corresponds to a situation when there is one or various key sectors in the administration whose disfunctioning creates problems for stability and gradually undermines the whole administration. It may also correspond to a situation where local authority is very weak.

Fact-finding Mission (FFM)

A FFM could be used to establish, within the framework of the scenarios set out above, what is the situation on the ground. The dispatching of a FFM would normally constitute the first step leading to a concrete operation. The general guidelines for FFM contained in doc. 15048/01 should be the basis for the preparation of the mission. The FFM should be given the conditions to gather all relevant information concerning the shortcomings of the administration, the identification of sectors where assistance is particularly urgent and those where the administration is self-reliant, as well as on the efforts previously and currently carried out in the field of Civilian Administration by the EC, individual Member States and NGOs. The work carried out by international organisations, such as the OSCE and the UN, but also the IMF and the World Bank, could constitute a valuable contribution to the EU's own effort of information gathering and needs assessment.

The composition of the Civilian Administration FFM should be decided on a case by case basis, depending on the situation to be addressed. In complex crisis situations the Civilian Administration FFM could be a part of a comprehensive and interrelated FFM, covering also other civilian and military aspects. Integrated mission planning efforts should be established as soon as possible to ensure planning co-ordination.

The FFM report should suggest a timeframe for an eventual operation, as well as a clear end-state. The timeframe proposed by the FFM should contain a roadmap, with clear goals and objectives.

3. Objectives and mandate of an EU Civilian Administration mission

End state

The end-state of an EU crisis management Civilian Administration mission is the creation of conditions for local political control and ownership of the Civilian Administration apparatus, in full respect of human rights, the rule of law and good governance principles. In order to achieve this end state for the crisis management mission, it is important that from the start there should be local involvement, increasing over time. Previous experiences (notably in East Timor) have shown that the inclusion, to the extent possible, of local personnel both at administrative and decision making level is a crucial element for the smooth transition to local ownership. A good example of this is the system of “co-heads” of certain departments in UNMIK, where a local official and an international official share responsibility with the local “co-head” eventually taking over after the Provisional Institutions for Self-Government are established, with UNMIK retaining a supervisory role of the latter. It is also important to foresee from the beginning a time-frame for the end-state, in order that the evolution of the mission can be planned.

Launching of the mission and mandate

As a pre-requisite for the EU to undertake or contribute to a Civilian Administration mission, an invitation from the host government or an authorisation by the UN Security Council or otherwise in accordance with the UN Charter or another authorisation permitted under international law will be necessary.

The Council, in accordance with the Crisis Management Procedures, decides that the EU will undertake or contribute to a Civilian Administration mission. The specific objectives of the mission should be also set, e.g. in a mission statement, and should refer in particular to the end state of the mission.

An essential aspect which the mandate should always reflect is the high political sensitivity of international involvement in decision making functions of an administration. Such functions should therefore only be taken on for as long as and to the extent that local authorities are not able to fulfil them.

As a principle, local law should be applied and taken into consideration when setting the mandate. In the case of the temporary absence or inapplicability of local law (not in conformity with internationally recognised human rights standards), the interim legal framework to be elaborated within the context of the UN might be useful. If necessary the mandate should determine the law to be applied in the mission area.

The mandate of the mission should also reflect the fact that the priorities of the Civilian Administration may vary considerably throughout the implementation of the mission.

4. Mission Types

When considering the terms of the mandate, the key issue will be whether the mission itself will take political responsibility for the leadership and control of elements of the public administration (substitution), whether it will be offering reinforcement to address identified weaknesses (including or excluding executive tasks) under the political control of the national administration, or whether it will be providing advice and mentoring (strengthening).

Based on the situation on the ground and on the objectives set, there is scope for a wide range of different types of assistance or services to be provided by a Civilian Administration mission. In many cases the mission would comprise a combination of these.

All missions must take into consideration:

- a) the specificities of the local situation, as regards all relevant elements concerning the population, the property registration and the related administrative functions;
- b) the local dimension of a possible transitional administration (central authority versus local/decentralised administrative entities).

(a) Substitution Mission

At the higher end of the scale, the EU should be prepared to take on, either alone or in co-operation with a lead international organisation, the executive functions of the state administration. It may be necessary to provide essential services which the central and/or local administration is not in a condition to offer its citizens. The goal will be the promotion of gradual self-reliance. The taking on of such functions would normally be through the establishment of a transitional administration. The guidelines for managing the transitional administration in a crisis management operation are extensively covered in the “Basic guidelines for crisis management mission in the field of Civilian Administration” (doc. 9282/02). When, in a first stage, the inclusion of local personnel is not possible, the EU mission should provide for the training of local personnel in managerial and executive tasks.

(b) Strengthening Mission

Second, the Civilian Administration mission could be what is best described as an intensified form of typical institution building support. That is, a significant number of advisors to / mentors of the administration rapidly deployed and concentrated at key decision and policy making level.

(c) Support to an EUSR

Civilian administration mission personnel might also be deployed as advisors and support to an EU Special Representative (EUSR), particularly when s/he has executive powers. In most instances an EUSR would require further assistance from personnel of other mission types, i.e. rule of law and police.

For all mission types, and when preparing a specific mission, four main aspects should be taken in consideration.

First, a considerable investment in resources and time must be given to planning activities, especially advance planning, both in the field and at headquarter level.

Second, the need to establish, from the outset, procedures for co-ordination with other actors on the ground also working towards the setting up or the reinforcement of the state's administration. In the case of missions, in particular those for a transitional administration, where the EU is part of a wider international mission it will be necessary to set out clearly who is responsible for which tasks and establish the necessary working level bodies to allow co-ordination (eg between the different pillars in UNMIK, each the responsibility of a different international organisation). This sharing of responsibilities should also incorporate from the outset the financial aspects. In terms of internal EU co-ordination, practical procedures to ensure synergy with on-going EC and Member State bilateral institution building programmes in the field of Civilian Administration should also be established. EUPM offers a good example of synergy between the mission and EC programmes, as well as with EU Member States bilateral programmes.

Third, and since the end goal of the mission is restoring local ownership, a set of criteria for determining the ending of the mission (an exit or phasing-out strategy) and a timetable for the phasing-out should be drawn up at the beginning. The criteria and timeline should be subject to regular reviews, based whenever possible on benchmarks, in accordance with the evolution of the situation on the ground and the developments in other components of the wider crisis management mission (when applicable).

Fourth, the scale of the mission should take account of the long term commitment that a crisis management mission implies. Although the intensity and nature of the intervention will change over time, gradually being phased into more traditional institution building support, Bosnia & Herzegovina and Kosovo demonstrate that the tasks of rebuilding public administration can last for a number of years. Political commitment must be maintained to avoid "secondment fatigue" and to ensure the achievement of objectives set. A civilian crisis management operation and long term institutional building are not necessarily deployed in a sequential manner, both because existing institution building support may continue during the crisis management operation depending on the nature of the situation, and because, in principle, institution building should start as soon as possible. Whenever possible, long-term institution building and the civilian administration crisis management mission should be carried out in a co-ordinated way.

5. Means and resources

Personnel

The very success of the mission depends on the quality of the personnel involved, in particular for senior/managerial level posts. Staff should have considerable experience and demonstrated competence in carrying out public administration tasks. This means that, in principle, mission personnel should be seconded from Member States public administrations and its selection and recruitment will remain the responsibility of the Member States, taking also into account gender issues.

At a very early stage of planning for the mission, it will be necessary to consider the appropriate staffing profile. This will fall into three broad categories:

- Political and senior management (policy makers, heads of service);
- Technical/professional advisors (assisting policy makers by providing specific sectoral expertise);
- Operational (directly involved in the delivery of services to the public).

In the case of transitional administrations, where a larger number of personnel will be required, a number of the necessary categories of staff could also be recruited directly by the mission through the open market .

The level of required expertise will depend on the extent of the problems faced by the local Administration, on the need for certain specialised expertise and may change with the evolution of the mission's mandate.

For Member State officials who might be seconded, priority must be given to ensure the identification of key personnel for rapid deployment. The call for contributions launched in November 2002 by the Danish Presidency was a first step towards the establishment of a pool of Member State experts able to take on assignments within Civilian Administration. The individual selection and deployment of resources remaining the sovereign decision of Member States, this pool of experts contains qualitative and quantitative capabilities pledged by Member States on a voluntary basis. Further calls for contributions could be envisaged in the future, based on

experience gained and a more thorough knowledge of the type of expertise which may be particularly required for Civilian Administration missions. The examples of international organisations with experience on the ground (notably the UN and OSCE) and their systems of rosters of experts should be taken into account, as well as the national arrangements for selection and recruitment used by Member States. The various sources of information should form a solid basis for the future development of common standards for recruitment and selection. The Commission has well-established systems for the deployment of Member State experts under twinning arrangements. It is currently establishing a system for the deployment of seconded experts on short-term missions.

In terms of non-state personnel, the method of their recruitment depends on the set-up of the mission. The Commission already has at its disposal framework contracts able to deliver at short notice expertise in a wide range of sectoral specialisms. It also holds rosters of experts ready for long-term posting overseas.

Training of personnel has been recognised as essential in successive European Council conclusions, and includes general and mission specific training. General training courses, ensuring the necessary preparation to work in conditions which are very different from those in stable states, already exist in some Member States. Training specific to Civilian Administration is much less common in Member States. The EU has undertaken to develop common standards and modules for training for crisis management, including in Civilian Administration. The current EC project on training for civilian aspects of crisis management, which includes the organisation of pilot courses for general mission preparation, including in Civilian Administration, constitutes a valuable element towards the development of such common standards.

Mission strategic planning and Lessons-learned

The drafting and submission of implementation and lessons learnt reports should be done from the early stages of the mission. Consideration could be given to the set up of Mission strategic planning and lessons learnt units within the mission. Implementation and lessons learnt reports should focus on the fulfilment of the mandate, the indication of main obstacles encountered and, when appropriate, recommendations for modification of the mandate.

The experience and contacts with other actors active on the ground, as well as with other components of the crisis management mission, could also be incorporated in the lessons-learnt reports.

Deployment conditions

Privileges and immunities for the international personnel of the Civilian Administration mission must be laid out in the mandate and be subject to a Status of Mission Agreement (SOMA). It should be taken into account that in certain cases there may not exist a central State authority to sign the agreement with, which proved a problem at the time the OHR was established. Mission-specific arrangements for personnel, including disciplinary measures, must be also considered.

An adequate level of security is an essential element for the functioning of the mission and the achievement of its objectives. Therefore, the mandate of the mission should take into account the security aspects of the deployment of a Civilian Administration component. For this reason, the FFM will take all security aspects into account. The level of security necessary for the implementation of the mission may vary considerably, but the security arrangements must always contemplate a procedure to be used in case of a rapid deterioration of the situation on the ground.

6. Horizontal issues

Co-ordination with other components of a mission

As was stated in the introduction, a Civilian Administration mission may well be a component in the context of a wider crisis management mission. In cases such as a failed state situation, the setting up of an administration apparatus will rely for its success on the parallel re-establishment of police forces and judicial and penal systems. Co-ordination between the various components, both during the planning and the implementation phases of the mission, must be sought. Furthermore, co-ordination with a possible military component of an EU crisis management must also be ensured to guarantee a secure environment.

Participation of non-EU states

Contributions of non-EU states to Civilian Administration missions or components are regulated by the modalities for the contribution of non-EU states to EU civilian crisis management (doc. 15203/02).

Co-ordination with international organisations

The type of involvement of the EU in an international mission will determine to a large extent the nature of the co-ordination that will have to be established with international organisations active on the ground. At the very least there would need to be fora for exchanging information, but, as set out above, if there is joint responsibility for the mission in some sense then day-to-day interactions and co-ordination would have to be more clearly set out.

The Göteborg conclusions explicitly mention the possibility of the EU providing a particular component to a mission led by an international organisation, namely the UN or the OSCE. There could also be the possibility of a mission led by the EU, but integrating contributions from international organisations. In both cases, detailed and clear modalities for co-ordination must be drawn in advance of the launching of the mission. Co-ordinated planning by the various organisations should also be considered.

In situations where the EU is entirely responsible for the mission, co-ordination with international organisations and NGOs present on the ground (be it on the country itself or in the region) would still be important, in order to avoid any kind of unnecessary duplication. A “mapping exercise”, in order to have a clear idea of “who does what”, could be envisaged.

DESCRIPTION OF FUNCTIONS IN CRISIS MANAGEMENT MISSIONS IN THE FIELD OF CIVILIAN ADMINISTRATION

The Göteborg European Council identified a list of functions which the pool of Civilian Administration experts should be able to perform. The list is based on the experience of previous crisis management missions (namely Kosovo and East Timor). It includes three broad types of functions and, inside each broad type, a series of sub-functions:

- general administrative functions (including Civil registration, Registration of property, Elections/appointments to political bodies, Taxation, Local administration, Customs Services);
- social functions (including Education, Social Services, Health and medical Services) and;
- infrastructure functions (including Water supply, Energy supply, Telecommunications, Permanent Infrastructure, Transport, Waste management).

The purpose of this annex is to provide some generic information on the nature of each of the functions. Job specifications should be flexible enough to take account of the different roles that the same function might undertake in missions of different size and scope. The functions' descriptions should be seen as a "common understanding" among member states as regards types of expertise. More detailed "job descriptions" will have to be elaborated for each specific mission.

The annex descriptions could be a useful tool for national delegations dealing with requests for experts in the field of civilian administration. This annex builds upon the work carried out by international organisations on recruitment and selection (i.e. in the U.N., the OSCE and the Council of Europe) and mainly on the OSCE REACT system, which outlines generic information on fields of experience, general minimum requirements and level of professional competence requirements. This annex could, therefore, also facilitate the co-operation between the EU and other international organisations.

General administrative functions

Civil registration

Registration of the citizens (based on census) of the area in question. It can be of utmost importance in the case of failed states or in the immediate aftermath of a long-lasting violent conflict, where data on population has been destroyed or is simply not reliable. Civil registration is also crucial in regions where the population is of varied ethnic origin and where it is necessary to have a clear picture of the ethnic balance. The correct registration of the citizens would constitute a first step for the preparation and holding of fair and democratic elections. Special attention should also be given to the protection of already existing registers and documents.

Registration of property

Set up (or provision of assistance) of the necessary mechanism to allow for a comprehensive registration of all types of property, with a special emphasis on land property. The registration of property makes it possible to check possible illegal occupation of property, which is very common during conflicts. In the absence of a clear legal framework, the primary function should be to issue documents proving that individuals own the property. This function is fundamental for economic development, as doubts concerning property ownership may deter investors from investing in the country. In this case, as well, special attention should be given to the protection of existing registers of land property.

Elections/Appointment to political bodies

Elections-related functions include activities prior to the holding of elections (distinct from elections monitoring). It entails essentially voters' registration and therefore could be done in parallel with the civil registration activities. It may also include the drafting of legislation and election regulations, monitoring of the development of political parties, registration of political parties, as well as the promotion of initiatives aimed at voters' education.

As far as the appointment to political bodies is concerned, it consists in providing experts in political affairs who would be allocated to key administration sectors, to make sure that the new state apparatus is built according to international standards for good governance and respect for human rights.

Taxation

Setting (or assistance to the set-up) of direct and/or indirect system of taxes, which would be a key source for the financing of the state and would help, in the long run, not to rely on foreign aid. The mission should aim at restoring basic services guaranteeing the revenue flow.

Local Administration

The structure of local administration should be taken into account and the degree of decentralisation. Local administration should be able to provide services in an efficient, transparent and accountable way. Assistance in training, expert technical assistance, development of information systems could be envisaged, including assistance in setting up a fair and transparent recruitment system.

It covers a number of different sub-tasks from the issuing of ID cards/certificates/passports to waste management.

Customs Services

All work related with the import and export of goods and the circulation of persons. It includes essentially the drafting of legislation (if necessary) or putting into force existing customs tariff legislation; the identification of major control points; re-establishment of a customs presence in the major border crossing points; and the set-up of the necessary structures to prevent smuggling.

Social Functions

Education

Set up of an education system; organisation and designing of the curricula for the various levels of education. In case of crisis resulting from ethnic conflict, the setting up of the inter-ethnic committees for the discussion and drafting of education curricula is essential (reconciliation attitude, non-racist/tolerant approach).

Social Services

Set up of social structures able to deal with/provide counselling on social problems that the population may encounter in the immediate post-conflict scenario, such as social exclusion, post-conflict trauma, etc. It is important for the mission to be acquainted with the local system and applicable law (e.g. child welfare).

In the start of the mission, humanitarian assistance might be necessary (to compensate, for instance, the lack of social allowances).

Health and Medical Services

Set up of the basic public health structures, both at the level of medical assistance and management. However, uncoordinated action which could lead to the setting up of too many medical centres that cannot be sustained in the longer-run, should be avoided. In addition, too numerous staff in hospitals and medical centres can also be counterproductive.

Assistance in provision of equipment and the development of curricula for medical higher education and technical assistance in developing the management capacity of the relevant Ministry can be envisaged.

Infrastructure functions

In this category of functions, assistance should be given to provide short-term aid in a crisis situation keeping also in mind longer-term development needs. In this context, it is important to ensure donors' coordination.

Water and energy supply/Telecommunications

In the water supply sub-category, clean water, water distribution and setting up of a water distribution network are the main priorities, ensuring access to a continuous supply of clean water.

In the energy sector, assistance could be provided for the good functioning of power stations, transmission and distribution networks, as well as in administration of the above.

In the telecommunications sector, assistance could be foreseen in the establishment of a network of stable telephony, primarily.

Permanent infrastructure

In post conflict scenarios the infrastructures may have been partially or totally destroyed by the belligerent factions. Assistance includes the reparation of, inter alia, roads and bridges, which could have a fast beneficial effect on the improvement of the living conditions of the population. Assistance could be foreseen also in the management of the existing systems and in future development of the systems (for instance in planning, tendering and contracting, supervision, financial management, control and audit). It is also important to stress cases where reparation of roads leading to regions populated by minorities could dispel the sense of isolation and contribute to development of these areas (i.e. limit unemployment).

Transport

Establishment of a basic network of means of transportation (buses, trains, etc.) as well as the design of the priorities of such a network.

Waste management

Establishment of an environmentally friendly policy of waste disposal, use of recycled products, as well as organising and designing areas, which will be used as waste disposal sites. Efforts should be made to promote information but also education in this sector.

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ADMINISTRATION OF LOCAL COMMUNITIES

Introduction

1. The EU concept for crisis management missions in the field of civilian administration (doc. 7657/03) stresses the limited time-frame of the Transitional Administration and indicates local ownership as the core objective of a civilian administration operation¹.
2. In a post-conflict situation where a complex crisis management operation is deployed, a Transitional Central Authority (TCA) may be established along with the other civilian and military components of the operation. The TCA is a prerequisite for the creation of the essential minimal conditions necessary to re-establish order and social security. Setting up the foundations of an organised social community will facilitate the gradual restoration of civil and peaceful life.
3. At decentralised level, the Local Authority (LA) has a central role in restoring basic services. The Local Authority, as part of the executive branch of government, performs administrative tasks in its jurisdictional area having national, regional or municipal nature². The LA is in a position to more precisely know and interpret the primary needs of local communities and therefore to provide services that better correspond to those needs. An efficient and transparent local authority can also contribute more strongly to building confidence in government institutions and directly involve the population in local government.

¹ “It should be conceived as a transitional and relatively short-term operation, which establishes the foundation of future development of effective management under the leadership of the national authorities”, *Draft EU concept for crisis management mission in the field of civilian administration*, doc. 7657/03, 20.03.2003, p. 3.

² *Basic guidelines for crisis management missions in the field of civilian administration*, doc. 9369/1/02, p. 8.

4. In dealing with such an issue, the EU should take into account the experience already developed by other international organisations, such as UN and OSCE in this field. Documents of the Council of Europe on the local self-government and its recommendations on the provision of social services could be also a valuable point of reference in setting up administration of local community.
5. Drawing also from the recent experiences of the Transitional Administrations in Kosovo and in East Timor, the present annex deals with some aspects which a possible EU civilian administration mission could likely face. However, in the light of what will emerge from concrete experiences to be made in this field, the conceptual framework herewith delineated will be revised and integrated as appropriate.

I Civilian Central Authority vs Local Authorities

6. A clear-cut and well structured connection, a division of institutional and legal competence between the TCA and the LA are crucial to the efficient functioning of a Transitional Administration. The general indicative guidelines listed below need be adapted to the specific circumstances of the local situation, taking into account the cultural, political and historical background as well as the ethnic composition of the population. The existing legal framework should also be considered in order to avoid the creation of a parallel institutional system.
7. It might be necessary to establish *ex novo* the relationship between TCA and LA. In this case, Local Authorities can be organised into territorial units/departments in charge of the basic administration and essential services. Administrative delegates/representatives of the Central Authority can be given the function of Head of the Local Authority/Head of Territorial Office. When laying out the territory administratively, the existing (or the previous if no longer active) traditional administrative characteristics are to be carefully taken into account. Special attention should be also given to the ethnic, religious and cultural background of the population as well as at the causes of recent conflict(s).

8. It is important to avoid excessive fragmentation of the relationship between the TCA and LA, above all in vast territory with a strong tradition of local autonomy. The re-building of administrative institutions in various parts of the territory should pay due attention to efficient co-ordination with the Central Authority so as to avoid the risk of local separatisms that might disrupt national cohesiveness and push local communities back into a confused governmental system. The control of the Central Authority should be consequentially established.
9. The re-building of the social organisation would depend also on the capacity to advance substantially in the re-establishment of normal standards. Institution- and capacity-building measures should reflect a pro-active approach to be functional to the prevention of crisis or the re-emergence of conflicts. In this regards, it is essential to involve since the beginning local people in management of the administration of local community. Local needs should be addressed, taking into the existing constitutional framework.

II Transitional Administration of the Local Functions by the Central Authority

10. When the place of the state institutions is taken over by an EU substitution mission, the Central Authority could intervene in the direct administration of local functions, thus ensuring, on a strictly transitional basis, administrative continuity in the immediate post-conflict situation and the provision of services usually supplied by local authorities, such as clean water, waste treatment, health and social services etc.
11. In this case, delegates of the Central Authority (DoCA) could be appointed in a number adequate to the geographical and demographic size of the State, as well as to the specific needs of the mission and to local traditions. Every DoCA is to answer to the TCA for all basic activities implemented at the local level such as:
 - population and property registration and related administrative functions;
 - specific mandated tasks in electoral matters;
 - reporting to the Central Authority on public order and civil protection;
 - urgent acts related to security and order;
 - provision of basic services;
 - budget and finance issues.

12. In some cases, the DoCA could take on typical functions of the Representative Local Bodies with executive functions. Therefore one of DoCA's priorities would be the hand over of these functions to representatives of local populations through open, free and fair elections and on the basis of criteria to be established, as appropriate, in the planning of the mission. The establishment of criteria could be realised through the "co-head" system envisaged by the EU concept on crisis management in the field of civilian administration¹, and their evaluation will, adapted to each situation, refer to relevant internationally agreed standards for public administration and the exercise of public powers.

13. The DoCA could be supported by:

- a) Deputy Delegates, which have the responsibility for key sectors of the administration (general administrative services; demographic services; local police and social affairs). They form the executive body of the local administration and carry out top-level functions of the civilian administration.
- b) various international officials, whose number varies in relation to the demographic size of the local community and the size of the area covered by the Local Authority Administration.

III Setting up Demographic Services Activities

14. In the first phase of a Transitional Administration, the re-establishment of demographic services could be considered. The appropriate functioning of these services can be a condition for organising elections and voter-registration, and facilitates the re-appropriation of individual's identity as citizen entitled to civil and political rights and related guarantees. It is also an initial step in establishing trust in State institutions, thereby easing the post-conflict transitional phase.

¹ Draft EU concept for crisis management mission in the field of civilian administration, doc. 7657/2/03 REV 2, p. 6.

15. The following activities should be considered:

- protecting existing population registries from manipulation and/or destruction;
- in case of absence or manipulation of the local registry, setting up the administration offices and re-establishment of the general births, deaths and marriages registry;
- registration of individuals and issuance of identity cards;
- population and habitation census;
- re-drafting of a plan for land parcels, housing lots and public spaces;
- regular maintenance and updating of the general births, deaths and marriages registry, as well as the issuing of certificates and performance of vigilance and/or investigative activities and statistics gathering;
- training of registry officials and demographic services operators.

16. Where appropriate legislation is not existing or not yet applicable, these activities could be undertaken once relevant legislation has been passed and made public. The normative framework would, *inter alia*, contain provisions on:

- identification of the central and peripheral headquarters of the authorised registry maintenance offices;
- central authority delegation of functions related to the activities of Birth, Death and Marriage Registry Official to local authority.

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ELECTORAL SERVICES

Introduction

1. The Göteborg European Council identified elections as a general administrative function which a civilian administration mission in the context of a crisis management operation is called upon to implement ¹.
2. The present annex addresses the case of a mission, in which the EU is involved in the organisation of elections in a post-conflict situation, and in the re-establishment of the related local administrative competencies. The EU already provides election support through election assistance programs and the deployment of EU Election Observation Missions (EOM) at the request of partner countries². These activities are out of the scope of this annex. It should be pointed out that when the EU, as part of a Civilian Administration crisis management mission, is responsible for the organisation of the elections/establishment of electoral services, it must not be responsible for the observation or supervision of the same elections.

¹ *New concrete targets for civilian aspects of crisis management* Annex III to the Annex to Report to the Göteborg European Council, *on European security and defence* 9526/01, 11-12 June 2001.

² Criteria and methods to provide this support are defined in Commission Communication on Election Assistance and Observation (COM 2000/191) and the 31 May 2003 Council Conclusions (9990/01 PESC 236, DEVGEM 103, COHOM 17) provide some criteria: level of security, level of desire among political forces and civil society to hold elections, existence of a legal framework meeting international standards, existence of pre-conditions for a democratic election process and providing for a level-playing field for campaigning, existence of an Election Management Body enjoying the confidence of the main political actors, level of administrative preparedness, availability of financial resources.

3. Electoral services are one important responsibility of the civilian administration. In particular they address all the activities concerning the organisation of referenda and elections at national and local level. The importance of such services in a transitional administration scenario is determined by the fact that they affect each individual in his/her relations with the political dimension of national and local communities. In this context, international intervention to mitigate or solve conflict, or to rehabilitate democratic institutions in a post-conflict situation, has to be seen as a continuum within which proper tools need to be used to facilitate progress from one stage to another.
4. As with all instances of public authority, the provision of electoral services must respect the fundamental principles of the rule of law, notably the division of power between the different elements of government and society. The need for independence of the entities concerned by electoral services must subsequently be respected and safeguarded, even under the conditions brought on by civil crisis.
5. Elections should not be considered as an exit strategy to put an end to international intervention, though they can contribute to de-escalate violence facilitating a peaceful and democratic political process. However, the elections are an important step to take, once adequate preconditions for a democratic process are in place.
6. It is fundamental to be aware of the potential dangers deriving from premature elections. The practicability and desirability of holding the elections with an international community involvement at a particular time is a political issue, which needs to be carefully considered within the appropriate institutional forums.
7. Once the political decision to hold elections is taken, it is of primary importance to avoid the negative effects deriving from the environment not being sufficiently stabilised and adequate conditions for free expression, freedom of association, assembly and movement not being in place. To this end, the evolution of the local situation will have to be monitored and assessed on a continuous basis regarding the holding of elections in crisis and post-conflict situations.

I. Establishing Electoral Services

8. To establish electoral services, a complex series of activities should be carried out. UN and OSCE experiences in this area are a valuable reference and a source of principles and modalities for the organisation and implementation of elections. When organising the elections, it should be considered that, at the same time, other activities could be carried out by other actors, international organisation and actors from civil society (media, NGOs, etc.).

Pre-Planning Phase

9. The decision of holding an election has to be preceded by an analysis of its opportunity and desirability. This analysis will also take into consideration a number of criteria, which will be assessed by a fact finding mission (*see infra*).

An interim electoral body responsible for implementing the existing legal framework for the elections is to be considered of paramount importance. When such a legal framework does not exist or its use is not desirable, the Interim Authority, in charge of the Transitional Administration, should establish a new legal framework¹. Under any circumstance, the legal framework should define as a matter of priority the electoral system to be used and the procedure to appoint an Election Management Body (EMB) (*see infra*).

In a post-conflict situation, the electoral system should allow for the broadest participation of the political forces. Moreover, local traditions and cultures, as well as eventual deep-rooted diversities within the state, should be carefully take into account.

10. A fact-finding mission (FFM) should be deployed early on in order to facilitate the planning of the overall organisation of the elections. It should evaluate the general conditions for holding the elections. The FFM should also give a preliminary assessment of the cost of the elections and draft a budget. The mission could be composed of experts in election administration, legal matters, human rights, logistic, security, procurement and civilian administration matters relating to central and local communities.

¹ "In case of the temporary absence or inapplicability of local law (not in conformity with internationally recognised human rights standards), the interim legal framework to be elaborated within the context of the UN might be useful", *ibid.*, p. 7.

Fundamental Steps in the Organisation of Electoral Services

11. The first step would be to identify the authorities in charge of the practical aspects for the organisation of the elections, with the constitution of administrative offices ranging from the voting centre all the way up to the general coordinating offices. If needed, an Election Management Body (EMB) could be created. The EMB should carry out its tasks in full compliance with the principles of impartiality, neutrality and transparency of work, in order also to gain the confidence of the civil society, including political forces. The EMB should establish a national structure with a central body and representatives at provincial/regional and local level. The EMB should be composed of international personnel and local personnel. It should be charged with the organisation, management and coordination of all the administrative and organisational activities herewith listed.
12. The second step in the organisation of the elections should be the identification of all the citizens and the residents in every specific geographic area, on the basis of established criteria for compiling official population lists.
13. A third important step is to identify those within the population who have the right to vote and then to compile a voter list. At this point, it would be necessary to legally regulate some crucial aspects:
 - definition of the regulatory framework by the EMB
 - delimitation of the voters on the basis of age and active and passive capacity to vote
 - legal provisions regulating the right to vote
 - establishment of ID valid for registration and voting procedures
 - establishment of procedures by which to maintain and update of the electoral registry
 - establish residency requirements and linking voters to specific constituencies
 - establishment of procedures to physically register voters (door to door /registration centres etc..)
 - define a display period and a claims and appeals period
 - identification of the authorities competent to handle voter complaints
 - refugees status procedures to organise out of country vote (OCV) whenever necessary
 - IDP status and relevant procedures for voter registration, whenever necessary

14. Other practical steps in establishing electoral services could include:
- the identification of districts and electoral colleges
 - definition of modalities for submitting/approving candidate and party applications
 - regulation of electoral campaign including media regulations
 - identification of jurisdictional bodies for eventual recourse
 - procedures for the counting of votes and the announcement of final election results
 - training of the local personnel
 - procurement of materials and printing of ballot papers, instructions and posters.

Direct Preparation of the Elections

15. Complementary logistical/organisational activities should be carried out parallel with the above mentioned activities. The identification of polling centre locations has primary importance also in terms of voter-turnout. The following aspects concerning the location of polling centres and stations should be taken into account:
- polling centres should be distributed in relation to the various urban and rural situations so as to be easily reached by voters;
 - polling centres and polling stations should guarantee that the voting is a smooth process (entrance, fulfilment of identification formalities, expression of vote, exit);
 - polling station should allow the contemporary presence of the candidates' and/or parties' representatives and other authorised observers
 - polling stations should arrange for (more than one) voting booths that guarantee voting secrecy
 - security of transportation of sensitive electoral materials should be catered for.
16. Legal and judiciary bodies possibly made up of magistrates should be also established for carrying out specific tasks:
- a Legal Commission, in charge of the verification and certification of final election results;
 - a judiciary official authorised to decide in controversies concerning the protection of the civil and political rights of individuals, related to candidates and concerning procedural fairness (defence of legitimate interests).

17. As regards these organs, it is essential to establish modalities allowing individuals to submit complaints and ensuring that they receive adequate responses. The following basic criteria should be taken into consideration:

- recourse without excessive expense and easy administration procedures on the part of those involved
- equal access to documents
- procedure transparency
- reduced and predictable waiting times

II. Expertise Profiles

18. Expertise profiles required for the electoral services are in function of the typical functions of the services as well as of the organisational-administrative needs of the mission.

(a) A first category of professional profile concerns the typical expertise in the field of elections:

- experts in legislative technique to suggest/establish electoral legislation and campaign regulations;
- legal experts, who carry out legal tasks such as the establishment of codes of conduct (for parties/candidates, observers, media, etc.);
- experts in political matters;
- technical experts in electoral systems;
- specialists able to identify electoral districts and colleges.

(b) A second category of professional profile concerns the expertise required by the technical-organisational structure to be set up, which includes specialists in the field of electoral materials: printing of ballot papers, publications and everything necessary for voter registration; and of the polling centres: from the design of the voting booths to the furnishing of the polling centre. This category includes experts in public relations tasked with the development and implementation of public information campaigns.

- (c) A third category of professional profile regards the expertise necessary for the efficient management of the electoral process, from the party enrolment to the publication of the elections results. It includes administrative experts to be assigned to the offices of different levels within the electoral services.

As far as (b) and (c) are concerned, the following indicative list of experts could be considered:

- legal experts
- election experts that can provide assistance in setting up and election administration
- demographic experts
- trainers for election administrators.
- public awareness campaign experts
- procurement experts
- financial/accounting experts
- Media experts
- security experts
- logistic experts
- information technology experts

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