Silvia Aprile, Antonio Marchesi, Gianni Rufini, Iacopo Viciani: Civilian power or political dwarf?

Fields, Rome - June 2003

The sustainability of the Development European model in the making of its foreign policy, the case of European intervention in crisis situations

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Euromediterranea 2003

Bolzano, June 2003

Scope of the paper

The paper explores the relations between the peculiar structures of European construction and its development policy. This argues that due to need for and lack of consensus among member states, the EC/EU was obliged to find a balance between ensuring international visibility and non-controversial political decisions. This entailed the development of peculiar policies and structures that forged the EC/EU development tradition. Nevertheless, the foreign policy is in the making, together with deep institutional changes. This could seriously affect the European development tradition. In the hypothesis internal contradiction are overcome and the European Union is able to tackle the contradiction in term of foreign policy, the previous EC development tradition could be utterly changed. The main questions the paper put forward are: Were the European civil model the contingency result of its actual weakness in its foreign profile? Does the development of an effective foreign policy will make the EU actions closer to those of its members states led by the national interests? Which are the chances of its tradition to influence the process and to turn the new EU in an effective civilian power?

It is out of the scope of this paper to explore the whole debate at constitutional level. On the other hands, this focuses on the EC humanitarian policy as the issue whereby the contradictions between real-politick and civil politic are the most striking. By definition, humanitarian actions are a-political, but, at the same time they allow achieving international visibility and they can easily achieve a large consensus among member states. On the other hand they just alleviate the consequences of a crisis but they do not contribute to its solutions. An effective foreign policy is supposed to find solutions to humanitarian crises using different tools. Humanitarian actions are still parts of the external actions of the same political subjects, and the sake for achieving coherence could push to integrate them in the same strategic political framework. In the European case, two extreme possible results could be achieved: the politicisation of humanitarian aid or the humanitarization of foreign policy. The underlining assumption of the paper is that the values and uniqueness of the European models could be integrated into the new structures. However, if these could not be kept with the political framework, other European bodies, such as independent authorities or agencies, could be devised to keep alive and practised.

Introduction

Since, in 1980s, the EC has become an important actor at global level, it has been perceived as a world power, especially in economic terms, but the Community has pursued a generous development policy becoming the most important interlocutor for the Third World. The relation built up through the Lomé Agreement may prove, above all, that the Community could be a "civilian model" for other regions. The EC promoting within its member States a more balanced economic order, social equity, juridic commitment, democratisation, freedom and dignity, it can also be considered as the promoter of those principles out of its borders." (...) As a global power in the making, the European Community combines most of the material and institutional potential needed for the status of the world power: outstanding economic strength, a large and educated population, a close-knit infrastructure, outstanding military efficency, a political system capable of action and readiness to get involved in the work of internatinal bodies. (...)" .

According to Jean Monnet, the European Economic Community (EC) has been contributing to the progress of the civilisation, maintaining the principles of universality, democracy, rule of law, respect of human rights as the cornerstone of its internal policies. These principles have become a sort of 'political values' which the EC has supported/promoted in its external relation with the Third countries. Over the years, relevant European acts and declarations , like the preamble of the Single Act and the Maastricht Treaty, proved Community and Member States' increasing commitment in putting forward these values above all, supporting human rights and democracy both in its internal policy and in development assistance.

However it took more than twenty years for the EC to include human rights as a structural component of its development policy. The advances on these issues culminated in the Council Resolution of November 1991, which included the observance of human rights and democracy in recipient countries as the most important element in development policy-making process.

The evidence shows that on one hand the EC has realised its gradual integration through the "communitarisation" of relevant matter, e.g. the Common Agricultural Policy (CAP), the trade policy, and the free circulation of goods and people within the Community's borders. On the other hand, the creation of an ever-closer union among the peoples of Europe corresponded to Member States and EC institutions' symmetrical interest in supporting developing countries in their own development efforts. This statement by Mr. Jacques Delors, summarises the sense and the essence of the EC aid policy as it has emerged since the European Community creation under the Treaty of Rome.

On April 2000 the Commission, in a communication to the Council and the European Parliament presented the new scope of the EC's development policy centered on sustainable development and taking an increased focus on poverty reduction. An additional aspect introduced in this strategy is the link between relief and development.

Such re-orientation is an effect of the large increase of conflictivity followed to the end of the Cold War, which has also determined – in the early 90s – the end of development aid programmes in countries affected by crises along with a broader shift of resources on humanitarian relief operations. The idea of Europe's humanitarian identity/profile has grown up, especially with the European Community Humanitarian Office's activity . The integration in the Cotonou Agreement of both conflict prevention and post-emergency actions assumed that crises or natural disasters can make sustainable development impracticable.

Over the past three decades the EC role in international affairs has been based not only on international trade, however on foreign aid and diplomacy as well. In fact the ACP-EC relationship is an important facet of the EU's external policy. This has not happened without contradictions: for instance, we cannot neglect the negative impact of certain common policies on the Third countries, namely the trade policy and the provision of the CAP in the Agenda 2000 with the issue of the consistency of the EC development policy. Nonetheless the link between internal integration and external relations can be explained with a sense of responsibility and dependence to the neighbouring and developing countries' needs.

Community aid is now becoming distinctively more political in its objectives. At the same time the actual distribution of aid is also being more conditional than in the past on policy actions by recipients.

The present European co-operation policy has been also oriented to reform trade relations between the EU and a number of developing countries. Examples of this include the Lomé Conventions, Cotonou Agreements and the EUROMED agreements, which should create a Free Trade Area between the EU and the "MED" countries. The EU is also exploring the possibility of free trade agreements between the EU and the Southern Cone Common Market (MERCOSUR).

European Community aid: relevant matter of the Eu external action

After its establishment, the EEC adopted a strategy of development co-operation aimed at maintaining special links, both political and economic, with respect to this selected group of developing countries so called Associated African and Malagasy State (AAMS) and the Overseas Countries and Territories (OCT) . As matter of fact, in 1958 the Treaty of Rome provided a legal framework for Association Agreement between EEC Member States and their former colonies, founded both on the principles of solidarity and trade preferences, responding in particular to France's strategic and cultural ties with their eighteen francophone former colonies.

In the '70s the European development co-operation has been extended to many others developing countries.
In 1972 the EC and Mediterranean Countries amended the Mediterranean Protocols in order to integrate these countries in to the Community's system of preferential treat. In 1976, programmes for financial and technical co-operation with Asian and Latin American countries started.

One year later, as a result of the United Kingdom accession to the EC, the Protocolle 22, annex to the document of the English accession to the EC, allowed 20 independent former British colonies to negotiate agreement with the CEE and a preferential trade regime. This means that at certain times France and UK

do have greater influence and role in determining the parameters of the EC external policy, and more specifically development co-operation.

Former British colonies from Africa, the Caribbean and Pacific joined the AAMS; and Kenya, Tanzania and Uganda associated with the EC, through the Arusha Agreement, in the so-called African Caribbean Pacific (ACP) group, the counterpart of the EC in the I Lomé Convention.

The ACP-EC partnership, for many years the EC development policy framework built up through the Yaoundé and Lomé Conventions, received its legal provision later, many years, in the Maastricht Treaty(Articles 130u -130w).

As matter of fact the Lomé Convention represented a key turning point reached in the 1970s , a remarkable EC's attempt to set up a New Economic International Order , by adopting the System of Generalised Preferences introduced by the II UNCTAD.

As highlighted in the Green Paper of 1996, in twenty years (1975-1995) the four Lomé Conventions have been considered the legal framework of the ACP-EC relationship, in this sense they can be recognised as cornerstones in the evolution of the EC aid towards third countries.. In particular the ACP-EC partnership, based on the political dialogue, is the most important outcome of the Lomé system.

At each Convention, more areas of cooperation were added and new instrument were introduced, for instance decentralised co-operation, regionalisation of economic partnerships, rationalisation and differentiation of procedures. The prominence of human beings, the development of human resources, the relevance of NGOs and human rights, recognized as the Lomé acquis, have set the framework for the EC action, not only towards the ACP group.

By contrast, because of the weight disparity between the EU and its counterparts, the EC-ACP partnership re-created a scheme of dependence, which Stuart Ravenhill called "collective clientelism" , a sort of political "European hegemony" towards developing countries.

The Lomé experience consolidated in the Cotonou Agreement (signed on 23 June 2000) which assumes poverty eradication as the most relevant aspect of the new ACP-EC partnership, especially towards the Least Developed Countries (LDCs).

In the development model gradually emerging from the Lomé acquis, International Conferences and the Cotonou Agreement, the EC gives high priority to political, social and cultural rights. Four key principles can be underline in the partnership conceived in the Agreement: ownership, participation and responsibility of a wide range of actors, the central role of dialogue and the diversification aimed at tailoring co-operation priorities to specific needs and development strategies of each partner.

In addition, other relevant matters come out from the EC-ACP partnership's experience: the long-term perspective of the relationship, the combination of trade and aid in development policies and, last but not least, the contractual relationship with obligations and rights for both parties.

According to a Prof. João Pinhero's statement, during the decades, EC development co-operation acquired an almost universal dimension, an essential feature of the EU's presence in the world. We can explain this trend with the increasing involvement of Europe in global patterns of production, exchange, debt, and migration.

As the Community emphasised, "development policy is today one of the three components of the EU's external action, alongside trade policy and political dimension. (...)". The huge differences of its inter-regional partnership and cooperation agreements (EUROMED, Eastern Europe, ASEAN, MERCOSUR) draw two EU's tracks, "the stability and development of neighbouring countries and the aid for countries in crisis in the regions nearest to the EU".

Following a more general trend among International organisations, while in the '60s the European Community had focussed its efforts on food and agriculture, in the '70s its strategy diverted towards the infrastructures sector and the self-sufficiency policy having failed. In the '80s prevailing concerns of aid donors shifted to financial crisis management and the macro-economic and structural reforms, with major attention to Latin America and South Asia. In this decade, Community assistance was extended to Central and Eastern Europe (CEEs), New Independent States (NIS) and Mongolia, called 'countries in economic transition', through PHARE and TACIS. No less than 84 % of Community Official Development Assistance (ODA) went to developing countries, half of all assistance went to the ACP, the CEEs and NIS being the second recipients.

As showed by the figures below, the European Union becomes one of the major actors in international co-operation and development assistance.

In total, the European Community and the Member States provide some 55 per cent of total international ODA and more than two thirds of grant aid. The European Community has the political and financial responsibility for more than 10 per cent of total ODA worldwide.

It is also the largest donor of humanitarian aid in the world".

Regional Distribution of EC Aid 1988-1998

	1988 (€ million)	%	1990 (€ m)	%	1998 (€ m)	%	1998 as % of total aid
ACP (incl SA)	2899	69.4	1393	52.1	2983	43.6	34.7
Asia	226	5.4	317	11.8	617	9.0	7.2
Latin America	159	3.8	222	8.3	485	7.1	5.6
Mediterranean	309	7.4	386	14.4	1368	20.0	15.9
CEECs	1	0.0	110	4.1	614	9.0	7.1
NIS	-	-	-	-	243	3.6	2.8
Not attributable aid	582	13.9	249	9.3	534	7.8	6.2
TOTAL ODA	4176	100	2678	100	6843	100	79.4
Pm Official assistance*		20		578		1771	
Grand Total	4196		3256		8614		100

*Aid to countries in transition (DAC definitions)

Source: Overseas Development Institute, The European Community External Cooperation Programmes, 1999.

Share of Official Development Assistance to Least Developed Countries	1986/87		1996/97	
EU Member States	44.3%		34.2 %	
Community aid	51.3 %		33.6 %	
Total DAC	38.1 %		31.5 %	

Source: Overseas Development Institute, The European Community External Cooperation Programmes, 1999.

The total EC aid committed to the ACP countries amounted to 29 billion Euros over whose main beneficiaries were the Sub-Saharan African countries.

Over 1988-1998, the total EC aid disbursement amounted to 54 billion Euros; in regional terms, almost half of the whole Community assistance goes to the 77 ACP States. Programme aid, food aid, humanitarian assistance and aid to NGOs accounted for 43% of all aid to ACP countries.

Sectors of intervention	1986 (million €)	1986 (% of total)	1998 (million €)	1998(% of total)
Programme aid	159	6.2	974	11.3
Food aid	655	26.0	690	8.0
Humanitarian aid	80	3.1	936	10.9
Aid through NGOs	49	1.9	204	2.4
Natural resources	163	6.4	437	5.1
Other productive sectors	214	8.4	592	6.9
Econ infrastructure and services	249	9.8	1850	21.5
Of which transport & com	130	5.1	928	10.8
Of which energy	112	4.4	434	5.0
Of which banking & finance	8	0.3	488	5.7
Social infrastructure & services	86	3.4	1291	15.0
Of which education	13	0.5	450	5.2
Health & population	24	0.9	313	3.6
Water supply	49	1.9	293	3.4
Other social	1	-	235	2.7
Governance & civil society	3	0.1	525	6.1
Crosscutting	89	3.5	481	5.6
Of which environment	4	0.1	146	1.7
Gender	0	0	13	0.2
Rural devt	7	0.3	215	2.5
Other	78	3.1	107	1.2
Not attributable by sector	796	31.2	632	7.3
TOTAL	2553	100	8614	100

Source: Overseas Development Institute, The European Community External Cooperation Programmes, 1999.

ECHO - Lessons learnt from international crises

Since the Sixties the European Community's has played a growing role in emergency response to catastrophes and armed conflicts. Its approach to relief actions, mainly based on the provision of food aid, had reflected a widely shared international position that considered fighting against famine and self-sufficiency the most important commitment with developing countries.

However, the European Commission humanitarian interventions are linked to the creation of its office. The analysis of its more than 10 years long history represents a good perspective to the European development of external actions in crises. Mainly the history of ECHO is an on-going tension between various factors: the development of a CFSP, the humanitarian environment, administrative considerations, and the institutional re-think of the Union. This section attempts to underline all these elements that differently shaped ECHO during its existence. If at the beginning of its existence ECH was unofficially born to face a difficult in the Balkan, in front of the lack of a common European policy. To some extent ECHO, as the whole humanitarian action, has been the minimum policy tool in different crises, while attempting to act according to the fundamental humanitarian principles. Nevertheless, other crisis management tools developed together with a limited CSPF, keeping a strange institutional relation with ECHO, finding areas to maintain different identities by de-facto arrangements. The chapter concludes on the legal and institutional feature, briefly focusing on the conclusion of the debate at convention level. For the first time the forum put together and tries to legally define the limits and rational of the different action in an institutional way. Its result could cast light on the chances for the European Humanitarian assistance to stick to its deontological principal of neutrality and impartiality or rather shifting towards a more real-politik oriented approach.

The earlier part of the 90s had given rise to hopes for a co-ordinated approach to crises, involving the military, diplomatic, humanitarian and developmental instruments within an integrated political framework. Success cases were widening from Mozambique to Cambodia and Central America. In these cases the use of the military component had been essentially aimed at supporting and protecting relief operations while establishing a broader climate of security on the territory.

Such operations were based on new approach to peacekeeping and humanitarian relief, based on a pivotal role of the UN-US-EC partnership. The new context with the attention put on appropriate reconstruction and development policies gave the EC the opportunity to display its considerable capacity in this field and allowed space for the now heavyweight role of NGOs, whose spectrum of competencies was easily (though sometimes superficially) converted to the new challenge.

The new context also influenced the debate within the military ranks. Proposals were discussed about re-targeting European defence forces towards peace support goals (peacekeeping, peace enforcement, interposition) and this had induced new considerations about the civilian-military co-operation.

In 1991, under the Delors direction, in a steering document (24 July 1991) the Commission stressed the fact that in various emergency situations the EEC had acted directly throughout its officials in the field. In addition the Commission underlined that this new trend urged the establishment of a single operational

structure, financed through a specific budget line. In the meantime the Court of Auditors in its evaluation report proposed the creation of an operational office for implementing EEC humanitarian assistance.

As a result of the Gulf war and the Yugoslavia crisis, in order to provide a rapid and effective response to humanitarian crises, the Commission decided to set up the European Community Humanitarian Office (ECHO), on 6 November 1991. The decision reflected the international context, where the crisis due to armed conflict required from all international actors a strong humanitarian commitment in financial and operational terms. For the first time after the end of the Cold War and in the wake of the Maastricht treaty, sketching out principles for a common foreign policy, two situations urged for actions. Both were political crises urging a common political response. Yet, it was unforeseeable a common European action, beside an humanitarian one.

In terms of humanitarian actions, the European Commission and its Member State considered vital a close co-ordination between all donors for "managing humanitarian aid for the benefit of the populations of non-Community countries affected by natural disaster or exceptional events". As a matter of fact, the office received the following terms of reference, listed in that decision:

§ "to bring under one umbrella the needed expertise to cope with the emergencies
§ to expand the Community's presence in the field by building the capability to intervene at various stages of a crisis

§ to improve coordination with Member States, other donors, NGOs and specialised international agencies
§ to achieve an easier mobilisation of the resources needed in large-scale crises"

This new office remained without a proper regulation until 1996, while trying to build its external visibility, its own space among the other long-established Commission services, its external expertise, while facing and shaping the humanitarian context.

So far, ECHO has worked in 85 countries and covers some programmes in countries of Central Eastern Europe and in the former Yugoslavia. It managed fund from the Commission budget (B7-21) and EFD for ACP countries. In 1992 ECHO Partners were 25, after seven years they had become 220, and ECHO budget risen to 812 Meuro. The resources are mobilised by Commission decision adopted in consultation with the Member States.

In order to strengthen its links with operational organisations, since the beginning, ECHO decided to work with a selected group of partners (UN, Northen NGOs and the Red Cross) through a specific Framework Partnership Agreement (FPA). Its purpose " (...) is to define roles and responsibilities in the

implementation of humanitarian operations financed by the European Community" . As a matter of fact FPA includes execution modalities, objectives, principles, values and criteria and "the rules governing humanitarian operations, which may be adjusted to suit different situations or changing circumstances". It also operates with two main purposes. It establishes areas of common work "the formulation of coherent strategies and the development of new initiatives for humanitarian operations so as to make humanitarian aid financed by the European Community more effective". It sets among the common goals "highlight the (European) Community nature of the aid and to increase understanding of humanitarian issues, specially in Europe and in third countries where the (European) Community is funding major humanitarian operations".

The interaction between social actors and policy has been considered one of the crucial aspects in the EC development co-operation and relief. In this framework the promotion of consultation mechanisms with the civil society may be considered - over the years - a relevant challenge for the Commission. The presence of a plethora of interlocutors as well as lobbying groups, NGOs networks, associations emerged as crucial to ECHO activity not only towards the poorest countries but also Eastern and Central Europe, and NIS.

The relation with the implementing partners is peculiar. The relation is labelled as partnership, and its openness to these civil society actors is an example for other Commission service. Nevertheless, ECHO has always tried to steer the debate and to compel the partners to accept ECHO's priorities.

However ECHO/ Partners relation has a twofold feature. If, on the one hand, ECHO has the influence deriving from being the main donors, on the other hand, partners are the main resources ECHO disposes in front of other services and to maintain its independence in front of the forthcoming CSFP In the first period of its activity ECHO recruited its personnel among DGVIII services officials, later the training of staff became one of its main priorities.

ECHO's Commissioners: humanitarian policies and the political level

Under the political responsibility of Emma Bonino (1995-1999), ECHO acquired an increasing visibility both in the EU public opinion and internationally. Emma Bonino interpreted ECHO as a fund supplier but as a politically strategic actor in international humanitarian assistance . The Office began working in Former Yugoslavia and the Great Lakes, in partnership with the United Nations High Commissioner for Refugees (UNHCR), the World Food Programme and several NGOs.

In the period 1992-1995, 1.176 Mecu were allocated to former Yugoslavia, 48% of the total humanitarian aid (Commission plus Member States). The ACP countries received 711 Mecu through the EDF. The ammount of humanitarian aid (EC plus member states) totalled 2270 Miecu, half of the international humanitarian aid. The relevant part of the sources had been disbursed through eleven budget lines and VI and VII EDF under Lomè Regime, financing more interventions on behalf of war affected people.

In 1994-95, most international NGOs sustained by academics and institutions pointed out the insufficiency of the International political response, namely the tendency of institutions - vis á vis crises - to agree on relief as the solely solution. In France, the expression piége humanitaire (humanitarian trap) translated the increasing frustration of aid organisations facing endless and powerless engagement in biblical complex emergencies. "The humanitarian organisations either find themselves alone in coping with situations of caos and unbridled violence that go beyond their capacity for action and far exceed their mandates, or, at the other extreme, see themselves relegated to the sidelines of operations conducted by those same States in conflicts where the political interests of the latter happen to coincide with the concerns of the humanitarian community."

At this stage, institutions and NGOs, as well as academics, undertook a major critical review of humanitarian system. Concerns for efficiency and effectiveness; need of coordination; lack of broader policy frameworks to operations; unclear relations between governmental, non-governmental and military actors; growing awareness of the risk for assistance to extend conflicts; increasing interference of the political sphere in neutral humanitarian space. The central role of UN agencies in operations had brought in an increasing politisation of aid, at the same time as the space for the UN-led peacekeeping actions was shrinking. While the UN role was discussed, ECHO, now the largest donor in humanitarian aid, decided to move on its own "European way".

Levering on financial problems (the high overhead of UN agencies and incompatible accounting) and its non-membership in the UN, it reduced the percentage of funding to UN agencies. Especially under the direction of the Spanish diplomat Alberto Navarro ECHO had shifted its priority relations towards NGOs. From an initial share of about one-third of ECHO budget, NGOs weight increased to 67% in 1999. Rwanda and Former Yugoslavia crises served as catalysts of a process that was social and political at the same time. A growing sensitivity of the European civil society, touched by its closeness with the war theatre, encouraged a "social" response, while the crisis of development policies pushed many NGDOs to look at humanitarian aid as a compatible alternative.

Last but not least, the humanitarian aid budget was growing and the development aid's one was declining. On the other hand, ECHO was isolated within the EC and in need of direct links with citizens, visibility, and public opinion.

Operational agencies respond positively to such opening: British NGOs, with contribution of MSF, Caritas and the Red Cross family, focus their attention on quality through projects like SPHERE, the Humanitarian Accountability Project, People in Aid and others. Steps towards coordination are also made at international level through networks like VOICE, ICVA and the Steering Committee for Humanitarian Response, which cooperate very closely with ECHO, occasionally Some of these umbrellas also open coordination offices in the field.

The situation changes again in 1995 with the NATO decision to intervene actively in Former Yugoslavia. Despite the traditional awkwardness of their relation with the militaries, humanitarian organisations eventually welcome the military action putting an end to a 5 years slaughter. The newly established cooperation softens the customary misconfidence and creates the cultural and political conditions for a new multidisciplinary approach.

In 1999, few months before the Kosovo crisis, Commissioner Emma Bonino (in charge of humanitarian aid) proposed the systematic use of military logistics for humanitarian purposes. In an interview to the Financial Times, she suggested an agreement between ECHO and the Western European Union (WEU) aimed at ensuring military logistics for the transport of food aid and further possible developments. The WEU welcomed the proposal, assuming that ECHO was ready to pay the cost of such operations. As obvious, after being checked against the budgets, the proposal was dismissed.

As Politics seemed to be increasingly concerned with peace, stability, democratisation and human rights the idea of a multi-faceted international community working within the same framework sounded realistic. Intertwining political objectives like development and democracy building and humanitarian ones appeared as an inevitable (though delicate) step towards a new vision of security. This vision includes on the one hand sustainable development, on the other control of migration flows and economic stability. It means that political actions to solve crises had to be supported by a long-term and well timed engaged of other instruments.

The presence of European humanitarian actors bloomed quickly in all major crisis areas. ECHO's mandate had been conceived as short-term and first emergency focussed, but the EC has been unable to define political and administrative responsibilities for these transitional phases, therefore ECHO just could not stop.
This long-term engagement, especially in the rehabilitation phase, allowed capitalising expertise and being incrasingly involved in the political process for the reconstruction of the country. This fuelled Commissioner Bonino's ability to give European humanitarian aid a high political profile.

From an administrative perspective, in 1996 ECHO received a clear legal status, after the adoption of the humanitarian regulation. This embedded the core principals of humanitarian assistance, impartiality, neutrality and humanity, but it was ambiguous in terms of the limits of ECHO interventions. In fact, ECHO is supposed to prevent from further suffering and to intervene, also, in the aftermath of the crisis. This justified it presence in the rehabilitation phase, and increased ECHO political visibility and role towards the other Commission Service. However, this engagement for the rehabilitation faces stagned ECHO in long-lasting crisis contexts. This obliged it to increase its structure and costs, while being unable to show concrete improvement on the field.

The Commission and the inside processes

In the last years of the '90s, the re-starting of the European insitutional debate and administrative reasons were the most relevant drivers of the ECHO internal discussions.

The year 1999 represented a difficult moment for ECHO, split between the rapid growth of its functions and budget and the beginning of a critical process within the EC. A previous scandal broken out one year before, disclosed a fraud for about 500,000 Euro referred to a contract with a commercial Technical Assistance Office (BAT). This brought to a financial paralysis, with the EP threatening to freeze the 1999 ECHO's budget. All external sub-contracting was suspended and new controls were enforced, dramatically affecting the possibility for ECHO to use private services as a form of direct operational capability. Few months later, an interpretation of the Financial Regulation determined a complete dismissal of the so-called External Agents. These experts, hired to cover the functions of civil servants, were key to fulfil the gaps in EC services' staff and ECHO – mandated to face the unforeseen - had always made a wide use of their services. The office lost several dozens of staff members that were partially replaced by seconded functionaries coming from very diverse areas of the Commission. For many months ECHO was even unable to update its database and maintain the web site. Also other factors contributed to downsize ECHO's ambitions.

a) The European Commission (EC) Financial Regulation is very binding on a number of issues such as controls, procedures, payments, purchases, recruitment, hiring of external services, etc. Although ECHO was allowed to limited derogation to the Regulation, these constrains were such as to prevent any prompt operational capacity in emergency;
b) As required by the humanitarian regulation the Art. 20 evaluation was carried out. An extensive evaluation of the European Humanitarian activities after 3 years from the approval of the regulation encouraged on a re-focus of the ECHO's mandate, overcoming the ambiguity of the 1996 Regulation. The conclusion of this independent evaluation represent the technical bases of any following politically-motivated change within ECHO.

c) A campaign against overstaffing in the EC has been carried on in the last five years by many Members

of the European Parliament (MEPs) and the Council of the European Union. ECHO staff consisted of about 120 officials and their number was unlikely to increase. Without the contribution of BATs and External Agents, there was no other way to uphold the level of operativeness achieved in Kosovo; d) Policies towards NGOs were changing and the spirit of partnership with civil society was under scrutiny by the Council and the Parliament. Eventually, the crisis of Santer Commission overwhelmed ECHO. As a new Commissioner was appointed, whose first concern was downsizing ECHO, Navarro resigned and a lot of staff re-assigned and a new phase began. This is also considered the end of the French-Kouchner towards a need based oriented approach. This move was translated into a legally strict interpretation of the "core humanitarian mandate", limiting the role of ECHO in the "grey zone".

Under Director Costanza Adinolfi and Commissioner Paul Nielson (Development and Humanitarian Aid), ECHO has given up any ambition to design policies while the operational temptation is slowly reviving. Looking at the OFDA model, ECHO aims at strengthening its capacity in assessment and coordination. So-called ECHO Delegates (field officers) are present in an increasing number of countries and have essential decision power on project approval, however they generally do not sit in Delegations. They "suggest" actions and choose implementing agencies. There is an effort to deliver rapid assessment missions and an "operational room" has been set up in ECHO premises in Brussels, in May 2001. Additionally, since June 2001 a new financial mechanism called First Emergency allows decisions and instalments to implementing agencies within 48 hours, 24 for Iraq. However, there are increased efforts to produce manual, guidelines and indicators to make ECHO much more need driven and accountable. This is can be explained to justify its deeds in front of the Members States, sticking at its "core mandate". To some extent, one could argue the more ECHO is perceived and persuaded the audience of its being impartial the more this increases its chances to survive institutionally. It is significant that at the same time the Policy and Evaluation Unit has been dismantled, it has been rearranged within ECHO 4, called strategy, evaluations and partnership. However ECHO is not turning into politically blind humanitarian actor but it is becoming much more strategic and accountable, e.g. Global Plans and global needs assessment or vulnerability indicators.

This emphasis on technical issues paves the way to other possibility. There are other possibilities in the future of ECHO. There is a proposal – yet to be discussed – to transform it in a decentralised autonomous agency based in a Member State, Sweden being the most likely to host it. Whether this would determine changes in ECHO's profile is still difficult to predict.

At political level, Paul Nielson wished the EC to acquire more weight in the UN system. Among other ways to achieve this, he contemplates a large use of humanitarian funds to finance UN Agencies, but this would imply to divert a share of ECHO budget from NGOs to inter-governmental organisations. At the moment, Nielson changed his attitudes towards NGOs is much more limited that at the beginning of its mandate.

The second major element of his policy about ECHO is stressing the focus on mere emergency while withdrawing from any post-emergency, rehabilitation or long-term activity.

The refocusing of ECHO on its core mandate is twofold: administrative and political. On the administrative side, while emphasising its emergency action, ECHO achieved particular status during the Commission reforms of procedures. ECHO could skip many of the financial controls, slowing down other services. On the political side, referring to needs and core mandate allowed ECHO to maintain its independence and to find its space in front to the development of the CSFP. As a matter of fact the Petersber tasks humanitarian actions within the mandate of the political crisis management mechanisms of the Union. However, ECHO could be excluded as this responds to simple humanitarian needs.

Led by the Red Cross family, a number of organisations as well as voices from within the establishment claim a full return to humanitarian purity, strictly based on the three principles of neutrality, impartiality and imperativeness, cutting all the threads with the political actors. But Afghanistan has confirmed that this is not the zeitgeist. If politics relies on relief as a major tool for response to crises, it wants it to be useful for political goals.

The refocus on the core mandate could be included in this return to pure humanitarianism and this also moved ECHO towards a ICRC approach to humanitarian action. This is both for a matter of consistency with the policy and for a question long-term sustainability of the "core mandate" position. As for the latter, if ECHO is to comply with the "core mandate", this has respond to worldwide crisis, according to the needs. In case, this is not able to do so effectively, the "core mandate" could be questioned and this could be the beginning of the politicization of the instrument, despite its regulation protecting it.

The European Convention

However the Convention has just drafted the legal framework for the future of the EU humanitarian interventions. Vis á vis the draft so far produced, a large group of humanitarian organisations (through the networks VOICE, Solidar and Eurostep) have moved strong criticisms to the paper. These are articulated into four main points:

1. **Needs-based aid direct to beneficiaries.**
The Convention draft states that "The Union's operations in the field of humanitarian aid shall be conducted within the framework of the principles and objectives of the external action of the Union as set out in Article III-188 (ex 1)" while humanitarian aid should be delivered on a needs-basis to the most vulnerable populations, independently from any political considerations. Article 1.2(g) states as one of the objectives, "assist populations, countries and regions confronting man-made and natural disasters." The problem here is that the EU has in the past delivered, without going through their governments. Assisting countries, instead of delivering humanitarian aid directly to populations, would imply involving EU politics and third-country governments in the distribution of EU humanitarian aid to their populations.

2. **Neutrality.**

Article III-218.1 affirms that "Humanitarian aid operations shall be conducted in compliance with the principles of international humanitarian law, in particular the principles of impartiality and non-discrimination". The third humanitarian fundamental principle of Netrality has misteriously disappeared from the list. NGOs stress that neutrality "contributes to greater access to intended beneficiaries and is often a vital element in relation to the security of aid workers. Neutrality can help to ensure non-discriminatory and needs-based humanitarian aid delivery" .

3. Quality and professionalism in delivery of aid.
Article III-218.5 proposes "to establish a framework for joint contributions from young Europeans to the humanitarian actions of the Union, a European Voluntary Humanitarian Aid Corps shall be set up. European law shall determine the rules and operation of the Corps". Apart from any consideration on the political meaning of organising voluntarism on a semi-institutional basis, there is hunanimous consensus among experts that humanitarian assistance requires sound professionalism. "Humanitarian aid functions in emergency contexts such as war and natural disaster, where know-how and quick reactions are essential, and dangerous, horrific and traumatising events are the norm. Humanitarian aid is a setting for experienced, trained professionals such as NGOs and international organisations. While the idea of bringing young Europeans in touch with third-country realities is interesting, a Voluntary Corps might be more appropriate in the context of long-term development cooperation"

4. Humanitarian aid and the fight against terrorism: Article III-205.1
In the text proposed by the Praesidium, "The tasks referred to in [Article I-40(1)], in the course of which the Union may use civilian and military means, shall include 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 peacemaking, 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". This re-calls a resolution by the Parliament proposing the creation of a European volunteer corps, reminding of the "US Peace Corps", mainly employed in development contexts. NGOs reply that "the only fight to which humanitarian aid should be called is the fight against poverty and human suffering" . The proposed text, a tribute paid to the dominant anti-terrorism wave, is a miserable sold-out of humanitarianism. There is no way humanitarian aid can be of any help at fighting terrorism, which requires other than providing water, distributing food and setting up refugee camps. Still, tying it to such political objective subdues aid to purely political considerations and priorisation.

The Rapid Reaction Mechanism

The Helsinki Council, in December 1999, had highlighted the need for a non?military crisis management mechanism, especially in light of Former Yugoslavia and East Timor crises. The Council approved an Action Plan (doc. 12323/99, 24 Nov. 1999, and doc. 11044/1/99 REV 1, 3 Dec. 1999) which "would show the way ahead and indicate the steps the Union has to undertake to develop a rapid reaction capability in the field of crisis management using non?military instruments". And called on the Commission to set up a Rapid Reaction Facility as part of its decisions on the creation of a European Security and Defence Policy. The so-called 'Rapid Reaction Facility' of Helsinki rapidly became 'Rapid Reaction Mechanism' (RRM) to avoid any possible confusion with the 'Rapid Reaction Force' (RRF). On February 2001 the General Affairs

Council created a legal basis for the RRM under the direction of the Commission DG RELEX.

According to the Action Plan, the development of a non?military rapid reaction capability, designed to enhance the EU's civilian capacity to intervene fast and effectively in crisis points outside the EU, should strengthen the synergy and responsiveness of national, collective and non-governmental resources. At the same time it should allow the flexibility of each contributor to decide on the deployment of assets and capabilities in a particular crisis, or via a particular channel. It should also facilitate the EU's contributions to – and coordination with - other organizations (UN, OSCE, etc.), thus ensuring coherence within pillar I. Its legal basis is represented by the Maastricht Treaty, as a part of the First Pillar, and the 'Petersberg' tasks, originally defined by the Western European Union in 1992 (with the Amsterdam Treaty, the WEU has become part of the EU). The 'Petersberg' tasks are described as Humanitarian and rescue tasks; Peacekeeping tasks; Tasks of combat forces in crisis management, including peacemaking. "At one end of the spectrum an operation could be dealing with the evacuation of people from an area and providing security and assistance to humanitarian organisations in order to help restore order or allow the relevant organisations to provide relief to refugees. The definition also covers 'conflict prevention' where a force may help to prevent a potential conflict situation from escalating in order to create conditions where the conflict can be peacefully resolved. Finally, at the more militarily demanding end of the spectrum, an operation could help to resolve a crisis between two warring factions. In practical terms, this could cover scenarios ranging from natural disaster relief, through peacekeeping operations similar to those currently in place in Bosnia, Kosovo and East Timor, to intensive military enforcement, as provided for under Chapter VII of the UN Charter. But the 'Petersberg' tasks do not include the core commitment of a classical military alliance."

The Rapid Reaction Mechanism (RRM) within the Commission's DG Relex (General Directorate for External Relations), is the EU's attempt to establish a concrete operational response to 'political' crises, without the intrinsic limitations of humanitarian aid. Such crisis management activities may include the promotion of democracy and the rule of law, police contingents to help restore public order, human rights monitoring, management of trade sanctions and other humanitarian tasks. The RRM is presently operational in Afghanistan, CAR and DRC. The main purpose of the RRM is to deliver rapid stabilising actions and preparatory activities for eventual longer?term assistance. Working on a six-month time span, the RRM is expected to be capable of delivering interim services while the bureaucratic steps normally associated with regular (slower) Community programs are being undertaken.

It may encompass a wide range of activities in the areas of human rights protection/promotion, emergency assistance and rehabilitation/reconstruction. In a sense, it mirrors most of the activities carried out by ECHO, without the constrains deriving from humanitarian principles. Not bound to strict rules about neutrality, impartiality and independence it may be oriented towards political goals and can be executed in synergy with the military device. Shyly, a distinction is made between the RRM's purposes and humanitarian assistance: overlapping with ECHO should be avoided, unless the Commission, in particular security or crisis management circumstances, decides for a combined intervention. "In such

cases, close coordination shall be established in order to achieve optimal overall coherence". Activities under the RRM can include: election monitoring, human right initiatives, media support, institution building, border management, police training and provision of police equipment, mediation, humanitarian missions, emergency assistance, rehabilitation and reconstruction. Framework Agreements, as an ad-hoc instruments rather than a long-term partnership, can be signed with implementing partners, who can be "authorities of Member States, or of beneficiary countries, and their agencies, regional and international organisations and their agencies, NGOs and public and private operators with appropriate specialised expertise and experience". The Commission is obliged to ensure close coordination between actions taken under the RRM on the one hand and the activities of EU member states and regional and international organizations on the other. "Where the Commission intends to take action under this Regulation, and before taking a decision, it shall inform the Council thereof forthwith. In its subsequent implementation of the action, the Commission shall duly take into account the approach adopted by the Council, in the interests of the cohesion of EU external activities" (RRM Regulation).

The regulation also seems to reflect a concern of Member States about the risk of an unbalanced role of the EC, which is strongly placed to help determine major policy decisions of the EU and is managing the CFSP budget. The RRM will operate through a separate budget line (25 million Euros for 2002), reinforced by the authority of the Commission to decide quickly on urgent interventions. In 2001 the RRM was used in Macedonia, in Afghanistan, in the Democratic Republic of Congo and to finance a mission for the realisation of a conflict prevention action program in Indonesia, Nepal and Pacific.

In the perspective of the communitarisation of the European Foreign Policy the RRM has created concerns in the humanitarian community, referred to possible confusion of humanitarian and crisis management actions. "If mandates and responsibilities of different actors are not clear in practice either for EU parties, local communities or warring factions, this may create confusion in crisis areas, at the expense of efficiency and security."

The complex ramifications of evolving decision-making procedures, the interaction of the Institutions in reaching those decisions, the still ill-defined role of ECHO in this process and the risks to core values of its neutrality and impartiality, are yet not fully understood and may determine major dilemmas. "The current institutional reform process within the EU institution will inevitably affect ECHO. (...) Whatever the institutional outcome, ECHO will certainly continue to contribute to overall EU activities in external relations in many contexts. In the latter instance there will be need for it to coordinate with EU civil protection As practised by Member States and other elements of the Commission" .

The   Humanitarian   Divide

Policy trends, from 1999 on, have heightened the need of re-establishing clear boundaries for humanitarian action, as well as an ad hoc political framework. The process of drafting the European Convention has offered the opportunity of reaffirming the principled nature of European aid but unfortunately Constituents seem to have missed the point, preventing Europe from becoming the first

sovereign entity whose fundamental charter is entirely based on international law. As we have seen throughout this document, the action of ECHO, generally sticking to humanitarian principles, has brought European aid in the forefront as a disinterested global actor in crises, broadly appreciated by the International community and the beneficiaries of such actions. But political shortsight in the Convention's Praesidium has decided to disregard this added value in order to fulfil short-term political goals. If the future European constitution is not able to provide an appropriate framework for humanitarian decision-making processes, we need to look at other possibilities such as the establishment of a mechanism, independent from the Commission, from the Council and from Member States, aimed at ensuring that European humanitarian aid is not dependent from political agendas or vested interests. A mechanism whose credibility is above all suspicion. The main task of such a body would be to promptly analyse a crisis, assess the needs and decide or, at least, recommend the volume and forms of assistance. This would have to be done as soon as possible after the outbreak of the crisis and then subjected to an ongoing review. The mechanism could also be entrusted with post-facto evalutation. Its tasks need not necessarily be limited to specific crisis. The independent body could also address general recommendations on the conduct of humanitarian assistance and, perhaps, at least informally, propose draft legislation. In short, it would have both monitoring powers and powers of political and normative initiative in the field of humanitarian assistance. The key element of the envisaged mechanism's success would have to be its moral authority. Nonetheless, assigning some sort of semi-binding force to its recommendations is an option that should not be ruled out: for instance, further procedural requirements for decision-making could be added in case its recommednations are not followed. International practice provides examples of independent bodies, including numerous international fact-finding bodies and commissions of inquiry, although no model is likely to be suitable without adaptation. The composition and functioning of this indipendent monitoring body would have to be carefully looked into, in order to combine indipendence and credibility with the necessary technical expertise, effectiveness and rapid-response. One possiblity is for its members to be elected by the European Parliament following a selection process in which all humanitarian actors, including NGOs, are involved.

Conclusions

The effort for ensuring neutrality and independence to humanitarian aid is far from being over. Achieving the political consensus is even more difficult since September 11 has induced all governments to consider every and each activity concerning international relations as a tool to pursue strategic goals. Still, independent aid has showed the best achievements – also at political level - only when it has been used in strict compliance with the rules and principles of IHL, and the idea it might be more profitable by binding it to the political agenda is a demonstrated illusion. This depends on the extremely delicate nature of this form of aid, the instable dynamics of conflicts and the sensitivity of the European public opinion for such issues, concerning humanity, solidarity and fundamental rights. Responsible politicians and humanitarian agencies are well aware of this truth, and should defend a neutral space for emergency aid based solely on needs and rights. This paper tried to provide a contribution to this effort.