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## EUROPEAN INTELLIGENCE COMMUNITY – THE UNFULFILLED PILLAR OF THE EUROPEAN UNION

### INTRODUCTION

The subject of special services, in spite of being one of the most tantalising and mysterious spheres of human activity, remains a poorly implemented research challenge. This statement is particularly important in the light of the shortage of scientific studies. However, as shown by numerous examples from the political history of the world, special services have a significant position in modelling the socio-political reality. Regardless of the degree of their involvement in the processes of decision making, the model of organisation, and finally the controversy that accompanies their operations – special forces have been and will remain an important designatum of the fields of social activity and the space of the analysis of interested researchers. It should be noted, however, that the overwhelming majority of authors do not regard this form of activity as a separate field of science. An exception is Abram Shulsky's position, who calls intelligence a universal social science, the aim of which is to understand and forecast political, economic, social and military events<sup>1</sup>. Undoubtedly, this is a position which takes into account the pragmatism associated with the function of intelligence. Intelligence is traditionally engaged in the collection, analysis and use of information from the perspective of the interests of the client.

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<sup>1</sup> See more in: Shulsky, A., Schmitt, G.J. 1991. *Silent warfare: understanding the world of intelligence*. Santa Monica, CA: Rand Corporation; Shulsky, A., Alan, V., Stillion, J. 1997. *Preparing the U.S. Air Force for military operations other than war*. Santa Monica CA: Rand Corporation.

Due to the exponentially changing information conditions, contemporary intelligence and its future cannot be perceived only through the prism of traditional definitions<sup>2</sup>. The perception eliminating the perspective of a global network of information connections distorts the civilisational picture. The flow of information covers not only a growing number of state institutions, but also a growing number of countries. And thus the strengthening of information cooperation between countries, as well as within groups of countries, takes place not only at the level of overt procedures, e.g. in the administrative sphere, but also at the level of intelligence cooperation. Contemporary threats and the complexity of task influence the phenomenon of the approximation of different actors. The difference between internal and external threats disappears. New challenges require a comprehensive look and coherent approach to security. What is needed is greater than ever coordination and at the same time interrelation of various instruments of action. New actors of the political game are often unknown and do not fit the traditional pattern of national antagonisms. Their actions are not always preceded by an escalation of tension between easy to identify entities. Contemporary conflicts have a much more sophisticated character. Intelligence services need to constantly develop new methods of action and update them. It is necessary to increase the level of identification of tensions and their detection. Effective detection of so-called 'new threats' requires increased intelligence cooperation between various branches of intelligence. Such cooperation is essential for the implementation of multi-faceted activities responding to these challenges.

Undoubtedly, intelligence plays an important role in the development of a common security policy in Europe, being one of the elements of the European Security Strategy<sup>3</sup>. Appropriate intelligence support is necessary for the implementation of the European security policy. Europe needs a common sense of security, unified perception of threats, and thus joint risk assessments. For this reason, the EU must offer a natural framework for intensified cooperation, at least developing the so-called intelligence community – matched to the declared political ambitions of Europe.

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<sup>2</sup> See more in: Zalewski, S. 2005. *Służby specjalne w państwie demokratycznym*. [Special services in a democratic state.] Warszawa; Zalewski, S. 2005. *Funkcja informacyjna służb specjalnych w systemie bezpieczeństwa RP*. [The information function of special services in the security system of the Republic of Poland.] Warszawa; Herman, M. 2001. *Intelligence services in the information age – theory and practice*. London, Portland: Or.

<sup>3</sup> See more in: Zięba, R. 1999. *Instytucjonalizacja bezpieczeństwa europejskiego*. [The institutionalisation of European security.] Warszawa. Cf. Lach, A. *Europejskie prawo karne. Zarys wykładu*. [European criminal law. A lecture outline.] Toruń.

The question which should be asked concerns the architecture of the EU intelligence community. The starting point should be a modern interpretation of both the environment of threats and methods of counteracting them. Cooperation is a prerequisite for development, in particular for the preparation of complete analyses of the potential and intent. Currently this task is sometimes impossible for one agency. It is obvious that a more complete picture of the threat can be obtained using the informational and logistical potential of a larger number of agencies operating in the area of geographical or functional competences. Without sharing intelligence data security authorities operating in Europe may have different perspectives leading to a divergence in the risk assessment and, consequently, the reduction of the response effectiveness. Meanwhile, the EU is to formulate and implement a common and uniform security policy. It can be very difficult without a coherent intelligence support. Therefore, firstly, a security strategy formulated in a modern way cannot focus only on the state level. Secondly, it must have a multi-contextual dimension, covering different areas of overlapping threats. Thirdly, it must take into account security challenges in the transnational perspective, with regard to their effects and geographical location. It is necessary to synchronise national and European activities<sup>4</sup>, and the former European Communities<sup>5</sup> are an undisputed and one of the most powerful players in the arena of global international relations. More and more often the region is viewed from the perspective of the whole family of nations rather than individual states. Foreign intelligence agencies must take this perspective into account. The European Community has been aware of it almost from its inception. It should be remembered that the timeline of tightening security cooperation in Europe covers subsequent initiatives over the years, including those initiated long before the signing of the Maastricht Treaty. We have to mention such projects as: Interpol<sup>6</sup>, the TREVI

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<sup>4</sup> Since 7 February 1992, i.e. since the signing of the Treaty of Maastricht the previous formula of integration has been expanded, basing it on three pillars: the European Communities, common foreign and security policy and police and judicial cooperation in criminal matters – forming together an organisation called the European Union.

<sup>5</sup> It is recognized that the European Communities were created when six countries (France, Germany, Italy, Belgium, Netherlands and Luxembourg) signed: (1) the Treaty of ‘Paris’, establishing the European Coal and Steel Community (ECSC), signed in Paris on 18 April 1951 (it entered into force on 23 July 1952), (2) ‘Roman’ treaties, establishing the European Economic Community (EEC) and the European Atomic Energy Community (Euratom) concluded on 25 March 1957 (both entered into force on 1 January 1958).

<sup>6</sup> In 1923, the International Criminal Police Commission was founded at the International Criminal Police Congress of Vienna. After World War II, during a conference

group<sup>7</sup>, the TREVI II group<sup>8</sup>, the TREVI III group<sup>9</sup>, the TREVI 92 group<sup>10</sup>, the Kilowatt group<sup>11</sup>, the Pompidou group<sup>12</sup>, Europol<sup>13</sup>. The culmination

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in Brussels it was reconstituted, with its headquarters in Paris, and in 1965 it got the name: the International Criminal Police Organisation – Interpol, at the same time the headquarters of the General Secretariat were moved to Saint-Cloud. At present, Interpol includes 187 Member States. The organisational structure of Interpol is based on a network of National Bureaus of Interpol, coordinated by the General Secretariat with the headquarters in Lyon, reporting its actions to the General Assembly and the Executive Committee. The exchange of information takes place in four working languages: English, French, Spanish and Arabic. See Łoś-Nowak, T. ed. 2004. *Organizacje w stosunkach międzynarodowych: istota-mechanizmy działania-zasięg.* [*Organisations in international relations: the essence – mechanisms of action –range.*] Wrocław.

<sup>7</sup> The TREVI group (*Terrorisme, Radicalisme, Extremisme et Violence Internationale*) established in Luxembourg in 1975 by the Ministers of Justice and Internal Affairs of the then European Community. It established a foundation for the later creation of the third pillar of the EU. TREVI permanent secretariat was established in Rome in 1975. See Starzyk-Sulejewska, J. 2007. Implementacja współpracy policyjnej w sprawach karnych. [Implementation of police cooperation in criminal cases.] In: Góralski, W. M. ed. *Unia Europejska. Tom II. Gospodarka – Polityka – Współpraca.* [*The European Union. Volume II. Economy – Politics – Cooperation.*] Warszawa.

<sup>8</sup> The TREVI II group was founded in 1976 mainly in order to launch joint training of police officers.

<sup>9</sup> The TREVI III group was established in 1986 as an initiative to undertake the fight against cross-border organized crime.

<sup>10</sup> The TREVI 92 group was established in 1989 in connection with the forthcoming abolition of controls at internal borders of the created Schengen zone.

<sup>11</sup> The Kilowatt group was created by 15 countries (the then EC, Canada, Norway, Sweden, Switzerland, Israel and the US) in the seventies for the cooperation of the security forces to combat terrorism (mainly Islamic).

<sup>12</sup> The Intergovernmental Group for Cooperation to Combat Drug Abuse and Illicit Drug Trafficking (the Pompidou Group) was established in 1971 as a team, the aim of which was to solve drug problems. Since 1980 the Group has operated in the framework of the Council of Europe. Currently, it consists of 34 European countries. The Pompidou Group, among others, initiated the development of research on drug problems. See Czaplński, W., Łacny, J. 2006. Współpraca sądowa i policyjna w sprawach karnych. [Judicial and police cooperation in criminal cases] In: Barcz, J. ed. *Prawo Unii Europejskiej. Zagadnienia systemowe. Prawo materialne i polityki.* [*The European Union law. Systemic issues. Substantive and political law.*] Warszawa; Gruszczak, A. 2009. *Współpraca policyjna w Unii Europejskiej w wymiarze transgranicznym. Aspekty polityczne i prawne.* [*Police cooperation in the European Union in the cross-border dimension. Political and legal aspects.*] Kraków.

<sup>13</sup> Europol (European Police Office) was mentioned for the first time in the Treaty of Maastricht. The agency began its operation on 3 January 1994 as the Europol Drugs Unit (EDU). In 1998, the Member States ratified the Europol Convention. Europol,

of these activities was the inclusion of cooperation in the sphere of justice and internal affairs to the so-called third pillar of the European Union, modified by the Amsterdam Treaty into police and judicial cooperation in criminal matters. Some Member States, without waiting for the political will of the others, made efforts to strengthen cooperation in security matters above what the third pillar offered. In order to realise this closer cooperation such projects as the Tampere Programme<sup>14</sup>, the Hague Programme<sup>15</sup>, the

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based in the Hague does not have any operating forces. It is a service preventing and combating organised crime of an international nature, and in this respect supports the relevant authorities of the Member States (e.g. helps to overcome language barriers). See Safjański, T. 2009. *Europejskie Biuro Policji Europol. Geneza. Główne aspekty działania. Perspektywy rozwoju.* [The European Police Office Europol. Genesis. The main aspects of the operation. Prospects for development.] Warszawa.

- <sup>14</sup> The Tampere Programme is a joint action plan of EU countries' governments within the development of the third pillar. It was adopted at the meeting of the European Council on 15–16 October 1999. The agenda covered such tasks as: (1) reduction of asylum proceedings and strengthening of the fight against illegal immigration – by unifying asylum procedures, (2) creation of a European legal space intended to ensure EU citizens freer access to justice systems, (3) common fight against organised crime through the creation of two new agencies Eurojust and the European Police College (4) cooperation with third countries. See more in: Grzelak, A. 2006. Współpraca państw członkowskich Unii Europejskiej w ramach Eurojustu. [The cooperation of the Member States of the European Union within the framework of Eurojust.] In: Górski, A., Sakowicz A., eds. *Zwalczanie przestępczości w Unii Europejskiej – współpraca sądowa i policyjna w sprawach karnych.* [Combating crime in the European Union – judicial and police cooperation in criminal matters.] Warszawa; Grzelak, A. 2007. Współpraca instytucjonalna w sprawach karnych na przykładzie Eurojustu i Europejskiej Sieci Sądowej – problemy teoretyczne i praktyczne. [Institutional cooperation in criminal matters on the example of Eurojust and the European Judicial Network – theoretical and practical problems.] In: Czapliński, W., Wróbel, A. eds. *Współpraca sądowa w sprawach cywilnych i karnych.* [Judicial cooperation in civil and criminal cases.] Warszawa.
- <sup>15</sup> The Hague Programme (HP), attached to the conclusions of the European Council meeting (EC) in Brussels on 4–5 November 2004, concerned the strengthening of the so-called area of freedom, security and justice and included an action plan for the next 5 years. The programme defined ten priorities on the basis of which the Council invited the European Commission to translate them into concrete actions, including among others: (1) fundamental rights and citizenship, (2) combating terrorism, (3) migration, (4) internal and external borders and visas, (5) a common asylum area, (6) the integration of foreigners, (7) privacy protection and information security, (8) organized crime, (9) administration of justice in civil and criminal matters, (10) the area of freedom, security and justice. The Hague Programme for the first time clearly stated that the political objective of the EU is the abolition of border checks at internal borders with the new Member States. See Starzyk-Sulejewska, J. 2007. Implementacja

Stockholm Programme<sup>16</sup> were subsequently initiated and finally the Treaty of Prüm<sup>17</sup> was signed.

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We should be aware that the acceleration of the activities of certain countries should be associated with the emergence of a real terrorist threat in the world and in Europe (bombings in Madrid and London). Therefore, intelligence cooperation mainly covers this type of danger<sup>18</sup>. It is obvious that

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współpracy policyjnej w ramach III Filaru Unii Europejskiej. [The implementation of police cooperation under the third pillar of the European Union.] In: Góralski, W.M. ed. *Unia Europejska. Tom II. Gospodarka – Polityka – Współpraca.* [The European Union. Volume II. Economy – Politics – Cooperation.] Warszawa.

<sup>16</sup> The Stockholm Programme defined the European Union's priorities in the area of justice, freedom and security for the period 2010–14. The activities were aimed at the interests and needs of citizens. It was stressed, among others, that European citizenship must be transformed from an abstract idea into a concrete reality.

<sup>17</sup> Germany proposed the adoption of an international agreement allowing, among others, access to police databases of the EU countries. In the absence of a convergence of views of all EU Member States, the Treaty of Prüm was signed on 27 May 2005 only by Belgium, Germany, Spain, France, Luxembourg, the Netherlands and Austria. Since the Treaty of Prüm is a Treaty of International law, adopted outside the framework of the European Union, the German Presidency in the first half of 2007 initiated the integration of the Prüm treaty into the EU legal framework. On 6 August 2008 two Prüm decisions were published in the Official Journal of the EU: the Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime and the Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime. The provisions of the decisions provide for direct exchange of DNA, fingerprints and vehicle registration data between the EU Member States, and in this respect are the reconstruction of the architecture of the SIS and VIS systems. See more in: Starzyk-Sulejewska, J. 2007. Główne kierunki realizacji Wspólnej Polityki Zagranicznej i Bezpieczeństwa Unii Europejskiej. [The main directions of implementation of the Common Foreign and Security Policy of the European Union.] In: Góralski, W. M. ed. *Unia Europejska. Tom II. Gospodarka – Polityka – Współpraca.* [The European Union. Volume II. Economy – Politics – Cooperation.] Warszawa.

<sup>18</sup> In 2003 the European Security Strategy was adopted. Javier Solana stressed then that the joint assessment of threats, as the most effective element of the security strategy requires the improvement of the exchange of information between individual states. At the beginning of December 2005, at a meeting ending the British Presidency the European Union the Counter-Terrorism Strategy was adopted. The document is based on the concept of 4P consisting of such activities as: (1) prevent, (2) protect, (3) pursue,

the EU must coordinate a wide range of security policy tools. That is why it requires support. Since the Treaty of Amsterdam, apart from Europol, the structural framework of security policy includes, among others:

- The Club de Berne;
- The High Representative of the Union for the Common Foreign and Defence Policy (HR CFSP), acting within the Secretariat of the European Council, together with the subordinated Policy Planning and Early Warning Team;
- The European Council's Working Party on Terrorism, meeting 6 times a year,
- The Counter-Terrorism Coordinator with the so-called Counter Terrorism Group (EU countries, Switzerland and Norway);
- The Intelligence Division of the European Military Staff (INTDIV);
- The European Union Intelligence Analysis Centre (EU INTCEN), formerly (SitCen – EU Situation Centre) at the General Secretariat of the Council supporting the Political and Security Committee (PSC) and responsible for providing information about the conditions of adaptation to crisis management;
- The European Union Satellite Centre (EUSC) – an agency operating since January 2002 with the headquarters in Torrejón de Ardoz, Spain, responsible for processing and delivering information from the analysis of satellite images, supporting decision-making processes in the field of the Common Foreign and Security Policy of the EU.

The above EU bodies have different responsibilities and are engaged in the so-called security production. The division of duties is based on the instrumental and geographical logic. With regard to instruments we can outline the schematic division into five areas of activity: (1) military (2) judicial, (3) civil and humanitarian, (4) economic, (5) political/diplomatic. In geographical terms we can make a clear distinction between internal and external

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(4) prepare. A few days later the European Union Strategy for Combating Radicalisation and Recruitment to Terrorism was adopted. It stressed the importance of the fight against root causes of terrorism consisting in breaking the existing network of terrorist cells and organisations, and cutting them off from the possibility of recruiting new members. See more in: Starzyk-Sulejewska, J. 2004. Mechanizm podejmowania decyzji w zakresie Wspólnej Polityki Zagranicznej i Bezpieczeństwa Unii Europejskiej. [Decision-making mechanism in the field of the Common Foreign and Security Policy of the European Union.] In: Parzymies, S., Zięba, R. eds. *Instytucjonalizacja wielostronnej współpracy międzynarodowej w Europie*. [The institutionalisation of multilateral international cooperation in Europe.] Warszawa.

dimensions of functioning of the EU, and within these dimensions in each of them also a division into the activity of nation states and the European Union as a whole.

The objective scope of the EU's activity is impressive and permanently increases together with the broadening of the harmonised space. A natural relationship appears here: the greater competence autonomy at the European level, the proportionately greater need for support at this level. It concerns common mechanisms of protection against surveillance and safe keeping of the interests of this political organism<sup>19</sup>. With this in mind it is certain that the European Union needs both intelligence and counterintelligence protection. Services should primarily strengthen and contribute better programming and consequently improve the quality of European policies. 'In the case of the European Union, interest of foreign intelligence services stems in a large part from the enormous economic importance and geopolitical potential. The EU should have its own institutions, legislative and executive bodies and its own budget. The need to protect information held by EU institutions and bodies grows as a result of closer integration covering subsequent areas. Wide powers of the European Commission, the Council and the European Parliament generate the threat of infiltration and attempts to influence decisions taken in the Union by foreign special services. Transparency and openness characterising the functioning of EU institutions, as well as common in the contemporary world access to information through modern ICT tools facilitate the acquisition of desired information by foreign intelligence. (...) The global position of the European Union, legal acts created in the EU have a significant impact on the shape of the law of many countries, not only the EU members. (...) The scale of the phenomenon may be evidenced by German estimates according to which about 80 percent of economic acts enacted by the Bundestag today have their origin in EU directives'<sup>20</sup>.

A still valid question is, therefore, whether the European Union needs specially dedicated EU intelligence agencies in this regard, or if the institutions functioning at the level of individual Member States are sufficient. The current counterintelligence model is multidimensional. 'The counterintel-

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<sup>19</sup> Cf. Borowiecki, R., Kwieciński, M. eds. 2006. *Informacja w zintegrowanej Europie. Koncepcje i narzędzia zarządzania wobec wyzwań i zagrożeń.* [Information in integrated Europe. Management concepts and tools in the face of challenges and threats.] Warszawa.

<sup>20</sup> Wróbel, P. Czy Unia Europejska potrzebuje służb kontrwywiadowczych. [Does the European Union need counterintelligence services?] *Portal Spraw Zagranicznych.* Available at: <http://intl.feedfury.com/content/18595929-pawe-wr-bel-czy-unia-europejska-potrzebuje-s-u-b-kontrwywiadowczych.html> [Accessed: 1 May 2014].

ligence protection, the safe keeping of data held by EU's institutions with the headquarters in Brussels is the responsibility of Belgian services – the State Security Service (*Veiligheid van de Staat, SV/Surete de l'Etat, SE*) and the Main Intelligence and Security Service (*Algemene Dienst Inlichting en Veiligheid ADIV/Service Général du Renseignement et de la Sécurité, SGRS*), which do not have a very good opinion. The EU agency Europol is partially engaged in tasks connected with the protection of access to classified data. However, its competences cover only criminal intelligence (...) On the other hand, at the intergovernmental level EU countries are obliged to protect common interests, including counterintelligence protection. The membership in the EU imposes on the states the duty to increase the level of protection of common interests, also in the scope of counterintelligence safeguarding<sup>21</sup>.

Despite the clearly defined counterintelligence needs inside the Union, the need to support EU activities carried out outside is even more prominent. It should be noted that civilian (support, humanitarian) and military missions carried out in various regions of the world are an important tool for strengthening the EU's international position. Due to the protection of influence zones, of course, countries of Europe, of the Mediterranean and the Black Sea regions, as well as Africa (due to post-colonial interests) enjoy the greatest interest of the EU.

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The so-called Petersberg Declaration, signed on 19 June 1992 in Bonn, was a cornerstone of the construction of a defence arm of the EU, including the creation of the possibility of sending foreign contingents. Its signatories were the Member States of the so-called Western European Union. The WEU Ministerial Council decided to set up a European army called Forces Answerable (FAWEU). In addition to defence tasks, the Petersberg Declaration gave the WEU Member States' military units the possibility of (1) participation in humanitarian missions, (2) participation in the process of restoring peace in areas of conflict, (3) joint crisis management. The composition of forces was established on 19 May 1993 in Rome and approved on 22 November 1993 by the WEU. These military forces consisted of more than 2000 units. However, their real use was small<sup>22</sup>. In 1996, Germany proposed the incorporation of

<sup>21</sup> *Ibidem*.

<sup>22</sup> In 1992–1995 naval forces monitored the waters of the Adriatic enforcing the arms embargo on the former Yugoslavia and economic sanctions against the Federal Republic of Yugoslavia. In the years 1993–2001 there were policing operations on the

the WEU into the EU. France supported the German proposals. The UK opposed it suggesting the establishment of a special European division in NATO. At the European Council meeting in Cologne on 3–4 June 1999 EU leaders adopted a declaration on strengthening the common European policy in the sphere of security and defence, which stated that if the EU is to be able to conduct its operations of conflict prevention and crisis management it should have its own forces. The EU was to take over from the WEU operational functions, including Petersberg tasks. On 10–11 December 1999 in Helsinki the next European Council meeting took place, during which the establishment of the European Security and Defence Policy was officially announced. Although the summit was aimed at the autonomisation of Europe's position, the North Atlantic Alliance remained the basis for common defence. Increased cooperation with NATO and better use of the EU's potential were declared. Currently, in accordance with Art. 17 paragraph 2 of the Treaty on the European Union (in the version of the Nice Treaty of 26 February 2001) the Community can carry out humanitarian and rescue tasks, peacekeeping tasks and tasks of combat forces in crisis management, including peacemaking (previous Petersberg tasks).

In the context of UE-NATO relations, the European Security and Defence Identity should be mentioned, the concept of which was born in 1991 as an attempt of the conceptual connection of the established European Union foreign and security policy with the role of NATO as the basis for the European system of collective defence. Countries which were members of both the EU and the WEU were promoters of the ESDI. The term European Security and Defence Identity was accepted in the discourse of NATO only in the Declaration of the Heads of State and Governments at the meeting of the North Atlantic Council in Brussels on 11 January 1994<sup>23</sup>.

In the calendar of events in the EU security sphere we cannot omit the information on the institution named the Headline Goal 2010. The document adopted in June 2004 defines the military aspect of the EU's crisis response

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Danube, in Mostar, and in Albania; in 1998–1999 they were carrying out observations of the state of security in Kosovo, and in 1999–2001 fields in Croatia were demined.

<sup>23</sup> In 1992–1993, the Council of Western European Union was restrained in the use of the term ESDI. In the Petersberg Declaration the WEU Council of Ministers expanding the role of the WEU as a defence component of the European Union and the European pillar of NATO, in line with the Declaration adopted by the WEU Member States at the European Council in Maastricht in December 1991 (point 9) does not refer explicitly to the concept of the ESDI. See Starzyk-Sulejewska, J. 2001. *Wspólna Polityka Zagraniczna i Bezpieczeństwa UE. [The Common Foreign and Security Policy of the EU.]* Warszawa.

capabilities<sup>24</sup>. The Headline Goal is a continuation of the Helsinki Headline Goal, also known as the European/Main Goal, which was developed at the Helsinki summit of the European Council of 1999, and already foresaw the creation by 2003 of EU rapid response forces in the number of 60,000 soldiers. These forces were to be self-sufficient and composed of elements of all types of forces (Army, Air Force, Navy). Due to the fact that these ambitious plans were not realised in the prescribed period, the Goal realisation was prolonged by means of a document in 2009. As part of the implementation of the Objective the European Defence Agency and the European Union Rapid Reaction Force (ERRF) and its operational division, that is Battle Groups were established<sup>25</sup>. The above mentioned armed forces of the EU are a foundation of the Common Security and Defence Policy (CSDP)<sup>26</sup>. The launch of EU missions abroad in the framework of the Common Policy does not require a UN mandate. An exception is the intention to use military force, for which the approval of the UN Security Council is needed. The rule is that foreign missions of the EU are undertaken with the approval and participation of only the countries concerned<sup>27</sup>. In the CSDP framework, we can

<sup>24</sup> The main goals are: (a) to improve the EU's defence capabilities, (b) to promote European armaments cooperation; (C) to strengthen the European defence industry and technological base and to create a competitive European defence market (d) to support research in order to strengthen the industrial and technological potential in the field of defence capabilities. See. Zięba, R. 2008. Bezpieczeństwo obszaru WNP. [Security of the CIS] In: Zięba, R. ed. *Bezpieczeństwo państw zrzeszonych w NATO i Unii Europejskiej.* [Security of members of NATO and the European Union.] Warszawa.

<sup>25</sup> The latter are rapid response units equipped by the Member States, including 1,500 soldiers each, capable of sustaining themselves in the area of operations and deployed in the area of operations within 10 days of the decision made by the EU. Battle Groups are either purely national or multinational units commanded within the concept of the so-called rotary and largest contribution command (framework nation). For example, France, the United Kingdom, Italy and Spain create separate national groups. Since 2009 Poland has been a member of a multinational group with Germany, Slovakia, Lithuania and Latvia. See more in Górka-Winter, B. 2006. Grupy bojowe Unii Europejskiej – koncepcja, proces formowania, perspektywy. [EU battle groups – the concept, the formation process, perspectives.] *Biuletyn PISM*, no. 69 (409), p. 1719; Panek, B. 2007. Operacje reagowania kryzysowego w europejskiej polityce bezpieczeństwa i obrony. [Crisis response operations in the European security and defense policy.] *Zeszyty Naukowe AON*, no. 4(69), pp. 119–125.

<sup>26</sup> Until the Lisbon Treaty its name was the European Security and Defence Policy (ESDP).

<sup>27</sup> Military and police forces of the European Union have been involved so far in 17 missions abroad, including in: South Sudan (EU Aviation Security CSDP Mission), Djibouti, Kenya, Somalia, Seychelles and Tanzania (EU Capacity Building Mission in the

distinguish four types of conducted missions: (a) police missions, (b) advisory missions and tasks of civilian-military support, (c) advisory missions on legal matters/monitoring missions, (d) military missions.

In the CSDP framework, the most important decisions are made at meetings of the EU Council in the rank of Ministers of Foreign Affairs or Defence Ministers. Strategic directions of cooperation in the EU in the area of security and defence are determined unanimously by the Member States at meetings of the European Council. This body meets at least twice a year at the level of Heads of State and Governments. Apart from the EU Council, the institutional division of the CSDP consists of: (a) the Political and Security Committee, (b) the EU Military Committee, (c) the EU Military Staff, and (d) the Politico-Military Group. On 12 July 2014 the European Defence Agency was established. On 3 November 2005 a NATO Permanent Liaison Team at the EU Military Staff was created, and on 1 March 2006 an EU planning Cell located at the NATO Headquarters. On 18 July 2005 the European Security and Defence College was established, which is composed of cooperating national institutions of the EU Member States. In addition, also agencies taken over from the WEU work for the CSDP: the above mentioned European Union Intelligence Analysis Centre (EU INTCEN), that is formerly the EU Situation Centre and the European Union Institute for Security Studies<sup>28</sup>.

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Horn of Africa), Niger (EU Capacity Building Mission in SAHEL Niger), Israel and Palestine (EU Border Assistance Mission at Rafah Crossing Point in the Palestinian Territories; (EU Police Mission in the Palestinian Territories), Moldova and Ukraine (EU Border Assistance Mission to Moldova and Ukraine), Bosnia and Herzegovina (EU Military Operation in Bosnia and Herzegovina), Iraq (EU Integrated Rule of Law Mission in Iraq), Georgia (EU Monitoring Mission in Georgia), Afghanistan (European Union Police Mission in Afghanistan), Congo (European Union Mission for the Democratic Republic of Congo; EU Mission to Provide Advice and Assistance for Security Sector Reform in the Democratic Republic of the Congo), Kosovo (EU Rule of Law Mission in Kosovo), Somalia (European Union Naval Force ATALANTA; EU Training Mission in Somalia), Mali (EU training mission in Mali), and Libya (EU Integrated Border Management Assistance Mission in Libya). See Ministry of Foreign Affairs. *Operacje i misje UE. [EU operations and missions.]* Available at: [http://www.msz.gov.pl/pl/polityka\\_zagraniczna/polityka\\_bezpieczenstwa/operacje\\_nato\\_i\\_ue/operacje\\_ue/](http://www.msz.gov.pl/pl/polityka_zagraniczna/polityka_bezpieczenstwa/operacje_nato_i_ue/operacje_ue/) [Accessed 22 September 2014].

<sup>28</sup> The above description of the main institutional pillars of the Common Security and Defence Policy should be supplemented with information that apart from forces built on the basis of the CSDP, covering all Member States, in parallel narrower initiatives of certain Member States are formed to coordinate their actions in a way beside the Common Policy. In 2006 military police units – the European Gendarmerie Force

In the case of the European Union, known for its bureaucracy, undertaking action in crisis management requires a lot of political and administrative coordination. The Political and Security Committee (PSC) is the primary operational decision-making body in the field of security policy. On a regular basis the Committee works out decisions of the EU Council as the most important body of the CSDP and politically supervises their implementation<sup>29</sup>. In turn, the highest military body of the EU is still the EU Military Committee (EUMC), which is a forum linking military representatives of the

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(EUROGENDFOR, EGF), were established with the headquarters in Italian Vicenza. They were established under an agreement of five EU countries (France, Italy, Spain, Portugal and the Netherlands). The proposal to create these forces was put forward on 3–4 October 2003 by the then Minister of Defence of France, Michèle Alliot-Marie. The agreement was signed by defence ministers of the five countries on 17 September 2004 in Noordwijk, the Netherlands. On 17 December 2008, the Romanian gendarmerie became the sixth full member of the organisation. It is provided that further countries may join it. The structure consists of 800–900 police officers, with the possibility to quickly resupply the manpower mainly on the basis of the French *Gendarmerie* and Italian *Carabinieri*. Another and at the same time earlier military initiative is so-called Eurocorps, also called European Corps. The organisation was founded in 1992 by Germany and France, as part of the so-called Elysée Treaty of 1963. It is a joint multinational rapid response military unit based in Strasbourg, formed to take part in crisis, humanitarian, rescue and peace enforcement and peacekeeping operations. Eurocorps headquarters are located in Baden-Württemberg. It is worth noting that in April 2000, Eurocorps took command of the peacekeeping force KFOR in Kosovo. The members of Eurocorps fall into two categories: the so-called ‘framework nations’ which include Germany, France, Belgium, Spain, Luxembourg and ‘associated nations’ (observers) which currently include: Greece, Poland, Italy and Turkey. In November 2011 Poland was invited to the negotiations on accession to the Eurocorps as a ‘framework nation’. Poland’s accession date has been fixed for 1 January 2016. See Mojsiewicz, C. ed. 1998. *Leksykon współczesnych międzynarodowych stosunków politycznych*. [The lexicon of contemporary international political relations.] Wrocław; Polska państwem ramowym euro korpusu. [Poland as a framework nation of Eurocorps.] Available at: [http://www.sgwp.wp.mil.pl/pl/1\\_659.html](http://www.sgwp.wp.mil.pl/pl/1_659.html) [Accessed 20 September 2014].

<sup>29</sup> Meetings of the Committee, held in principle twice a week, are attended by national representatives in the rank of ambassador. The Committee also receives substantive support in the sphere of the civilian dimension of crisis management in the form of opinions and analyses from the Committee for Civilian Aspects of Crisis Management (CIVCOM). In turn, the Politico-Military Group (PMG) is responsible for politico-military aspects of the CSDP, including the preparation of plans and instruments in the field of military and civil-military operations of the Union. The Crisis Management Planning Directorate (CMPD), the youngest of the permanent CSDP structures, established in 2009, is responsible for planning of civilian and military operations in the political dimension. All the committees can count on the support of other EU

member countries. The Committee provides recommendations on military matters directly to the Political and Security Committee<sup>30</sup>.

Every activity of the bodies listed above needs information support. They receive the greatest support from the European Union Intelligence Analysis Centre (UE INTCEN), a cell previously belonging to the space of the General Secretariat of the EU Council, and currently co-creating the European External Action Service (CPCC). This agency is the most far-reaching and the most practical instrument of EU security policy, and is also one of few community and at the same time ready tools of the classic intelligence provenance. Therefore, more attention should be devoted to it.

The EU INTCEN was established in 1999 with the creation of the European Security and Defence Policy (headed by Javier Solana as the EU High Representative). Initially, the agency was known as the Joint Situation Centre, and from 2005 officially as the EU Situation Centre (EU SITCEN). Finally, in 2012 it was given its currently name, i.e. the European Union Intelligence Analysis Centre (EU INTCEN). In 2010 the INTCEN became a part of the European External Action Service (EEAS). However, the agency has a longer history since its origins date back to the Western European Union (WEU), when without formal structures it was a part of the General Secretariat of the Council. The personnel coming from seven intelligence services of the Member States assigned to the centre gathered confidential intelligence data in the framework of the so-called 'insiders club', consisting of analysts of intelligence of France, Germany, Italy, the Netherlands, Spain, Sweden and the UK (functioning in a way outside the framework of the EU and the Club de Berne). Following the terrorist attacks on New York and Washington of 11 September 2001 a decision was made to use the existing Centre to create a forum for the exchange of classified information on a wider scale. In June 2004 within the SITCEN a special counter terrorist cell was established (the Counter Terrorist Group) composed of representatives of Norway and Switzerland in addition to the analysts from the so-called 'insiders club'.

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structures, which previously were subordinated directly to the General Secretariat of the Council and are now part of the European External Action Service (CPCC).

<sup>30</sup> The Committee's work is supported by the Working Group of the Military Committee (EUMC), meetings of which are held regularly once a week with the participation of senior military representatives of the Member States and the EU Military Staff (EUMS) as the body responsible for the strategic planning process at the political level, having the possibility of creating an Operational Centre in a short time, capable of independent command of a selected operation.

It should be noted that the legal basis for the establishment of the INTCEN remains unclear. According to a report prepared in 2009 by Jelle van Buuren – a Dutch analyst of the EUROWATCH Institute (Stichting EUROWATCH), the transfer of the organisation from the WEU to the General Secretariat of the Council was not made on the basis of a decision of the Council, but on the sole initiative of Javier Solana<sup>31</sup>. There is no publicly available document defining the mandate for the activities of the Centre. This is explained by the fact that the Centre was subordinated to the administrative autonomy of the Secretariat, therefore, formally the SITCEN (then Joint Situation Centre) was established with the parent Political Cell pursuant to the Decision of the EU Council of 22 January 2001 introducing the legal order of the Common Foreign and Security Policy and was functionally subordinated to the High Representative of the Union for Foreign Affairs and Security Policy<sup>32</sup>. It is worth noting that in the document establishing the European External Action Service (EEAS), despite the shift of the SITCEN to this structure, there is still no provision formally legalizing the Agency. It mentions the functioning of the Centre as such – treating it as an existing fact. All employees were moved *en bloc* to the European External Action Service (with the exception of employees supporting the Security Accreditation Office). The issue of doubts connected with the legal basis for the functioning of the INTCEN remains open.

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<sup>31</sup> This means that the agency initially operated only on the basis of political, not formal legitimisation. At that time, the Centre's mission was, among others,: (a) contribution to early warning on the basis of open source materials, military intelligence and diplomatic reporting, (b) monitoring and evaluation of the situation, (c) providing support for crisis management, (d) providing the operational contact point for the High Representative. See. Van Buuren, J. 2009. *Secret truth: The EU joint situation centre*. Amsterdam: Eurowatch, p. 9.

<sup>32</sup> The European External Action Service supports the High Representative of the Union for Foreign Affairs and Security Policy in performing his/her duties. The legal basis of this service is Article 27 paragraph 3 of the Treaty on the European Union. Its organisation and functioning were established by a decision of the Council. In October 2009, the Council adopted guidelines on the role and functioning of the service. In accordance with the guidelines the European External Action Service comes under the authority of the High Representative. It assists the High Representative in preparing proposals for the Union' foreign policy and implementation of the decisions adopted by the Council in this field. The European External Action Service can also support the President of the European Council, the President of the Commission and individual Commissioners in the activities connected with the EU foreign policy. See Council Decision (2010/427/UE) of 26 July 2010 establishing the organisation and functioning of the European External Action Service, (Official Journal of the European Union L 201 of 3.08.2010).

The Centre is comprised of the members of the Political cell and the EU Military Committee (EUMC), as well as representatives of the European Commission. Moreover, officers of intelligence agencies of the Member States of the EU are delegated to the INTCEN. The Centre is responsible for gathering information on potential and existing crises and international conflicts, preparing analyses and providing them to the Political and Security Committee (COPS), the EU Military Committee and the High Representative for Foreign Affairs and Security Policy (as the European Union body responsible for the management and supervision of the Common Foreign and Security Policy and its integral parts, i.e. the European Security and Defence Policy).

The INTCEN monitors and assesses international events, focusing especially on sensitive geographical areas, with a focus on the detection of terrorism, proliferation of weapons of mass destruction and other global threats. Officially, it is stated that the Centre is responsible for: (a) providing exclusive information, (b) providing assessments and briefings and a range of products based on intelligence, (c) acting as a single entry point in the EU for classified information coming from the Member States' civilian intelligence and security services, (d) supporting and assisting the President of the European Council and the President of the European Commission in the exercise of their respective functions in the area of external relations.

Organisationally since 2012 the EU INTCEN has been composed of two divisions: (1) the analysis division – responsible for providing strategic analyses based on data from the security and intelligence services of the Member States and (2) the general and external relations division divided into legal, administrative, and open source analysis departments.

In the years 2001–2010, British diplomat William Shapcott was the director of the Centre. Currently, the Agency is headed by Ilkka Salmi, previously head of the Finnish intelligence agency (*Suojelupoliisin*), with earnings of approximately 180,000 EUR per year, who directly reports only the High Representative of the Union for Foreign Affairs and Security Policy<sup>33</sup>. At the

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<sup>33</sup> The Amsterdam Treaty established the Office of the High Representative for the Common Foreign and Security Policy (colloquially *Monsieur PESC*), and the post of the Secretary General of the Council was incorporated into it. Under the Treaty of Lisbon a function of a single High Representative of the Union for Foreign Affairs and Security Policy was created, whose role is to conduct the European Union foreign policy. Jürgen Trumpf, a German, was the first, and now this function is performed by Federica Mogherini, an Italian, who in turn is a successor of Catherine Ashton, a Briton, (in office since 1 December 2009). According to the Art. 5 of the Protocol

turn of 2012 and 2013 the INTCEN employed 67 people (out of about 3,500 employees in the framework of the Common Security and Defence Policy), including 47 employees in the analytical division and 15 in the division of foreign relations plus Ilkka Salmi and four directly subordinated agents. It should be noted that human resources of the INTCEN are small compared with the national intelligence services. For example, the British MI5 employs about 4,000 people at its headquarters. However, they increase systematically. In December 2010 the ‘EU observer’ reported that the organisation had a team of just 15 analysts. This means that the number of employees of the Agency has multiplied in recent years.

In 2007, the functional capability of the Centre was strengthened by the establishment of uniform standards for the analysis of intelligence and counterintelligence data (both of the civil and military divisions). Since 2007 INTCEN has been a part of a platform called Single Intelligence Analysis Capacity (SIAC) which combines the civilian space (UE INTCEN) and the military one (the Military Staff of the European Union – EUMS)<sup>34</sup>. This formalised the cooperation between the two sectors, which in practice had already existed before. In 2010 the EU Military Staff was, just like the INTCEN, incorporated into the European External Action Service (EEAS).

It should be emphasised that the two structures are the main clients of the European Union Satellite Centre (EUSC), an agency with the headquarters in Torrejón de Ardoz near Madrid, responsible for processing and delivering

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annexed to the EU Treaty the mandate of the High Representative is linked to the term of office of the European Commission. The European External Action Service supports them in performing their duties. The representation of the EU outside is not an exclusive duty of the High Representative. In the framework of the Lisbon Treaty, the European Council President is authorized in his scope to represent the EU to the outside (not limiting the powers of the High Representative). The treaty does not specify, however, how the work should be divided between the two offices, leaving the question of this division to be determined in practice. See Zięba, R. 2007. *Wspólna Polityka Zagraniczna i Bezpieczeństwa Unii Europejskiej*. [Common Foreign and Security Policy of the European Union.] Warszawa.

<sup>34</sup> The European Union Military Staff is a body of the European Union established on 22 January 2001 by the EU Council, acting in the framework of the European Security and Defence Policy. It is a department of the Secretariat of the EU Council. It is composed of military experts delegated by the Member States. Only at least a three-star general can be elected the chairman. See. Góralski, W.M. 2007. Koncepcja ustrojowa i instytucjonalna II filara Unii Europejskiej. [The systemic and institutional concept of the 2<sup>nd</sup> pillar of the European Union.] In: Góralski, W.M. ed. *Unia Europejska. Tom II. Gospodarka – Polityka – Współpraca*. [The European Union. Volume II. Economy – Politics – Cooperation.] Warszawa.

information coming from the analysis of satellite images. The Centre was established on the basis of the Council Joint Action of 20 July 2001<sup>35</sup>, then amended by the Council Joint Action 2009/834/CFSP of 10 November 2009 amending Joint Action 2001/555/CFSP on the establishment of a European Union Satellite Centre<sup>36</sup>. The Centre operates under the political supervision of the Political and Security Committee, and operational leadership of the High Representative of the Union for Foreign Affairs and Security Policy and it reached its full operational capacity in 2002. The Member States, the European Commission, selected third countries (European members of NATO not belonging to the Union and other countries applying for membership) and international organisations (mainly the UN, the OSCE, NATO) may direct inquiries to the High Representative of the Union for Foreign Affairs and Security Policy who – if they are executable by the EUSC – assigns the tasks and orders their execution<sup>37</sup>.

The proposed support for the tasks undertaken by various units of the EU relates in particular to the shortage of information. However, the range of the use of the Centre is small. This results, among others, from the lack of habits, good practices and procedures in this regard. For example, the European Commission usually undertakes itself the tasks of obtaining information (usually imagery intelligence – IMINT). This means that instead of being a decision-making centre and acting as the main recipient of such products, in most cases, it provide itself with this kind of support. As you might guess it is not systematically prepared for this kind of activity, particularly in terms of

<sup>35</sup> Official Journal of the European Union L 200 of 25.7.2001.

<sup>36</sup> Official Journal of the European Union L 297 of 13.11.2009.

<sup>37</sup> The Political and Security Committee provides the High Representative of the Union for Foreign Affairs and Security Policy with the guidelines concerning the priorities of the EUSC. The latter determines the directions of the EUSC activity, without prejudice to the competence of the Administrative Board and the Director, as well as reports to the Political and Security Committee. The Administrative Board adopts annual and long-term work programmes and budgets, and also discusses issues related to the functioning, staff and equipment of the EUSC. The chairperson of the Administrative Board is the High Representative of the Union for Foreign Affairs and Security Policy who presents reports on the work of the Administrative Board to the Council of the European Union. Each Member State and the European Commission delegate one representative to the latter. The EUSC Director participates as a rule in the meetings of the Administrative Board, in which the CEO of European Union Military Staff and the Chairman of the Military Committee of the European Union can participate. Currently, Tomaž Lovrenčič is a director of the Centre. See European Union Satellite Centre. Available at: [http://europa.eu/about-eu/agencies/regulatory\\_agencies\\_bodies/security\\_agencies/eusc/index\\_pl.htm](http://europa.eu/about-eu/agencies/regulatory_agencies_bodies/security_agencies/eusc/index_pl.htm). [Accessed 20 September 2014].

technical, analytical intelligence, not to mention obtaining personal sources (HUMINT). But the benchmark are areas that may constitute priceless value added. It can be assumed that within the competence of the EU the minimum range of space in which intelligence support is essential boils down to the following areas of activity:

1. Interventions and military missions of the EU – where intelligence aid is of key importance. It allows to avoid unnecessary losses and errors, both in strategic planning, as well as at the stage of undertaking individual operations. The area of action must be thoroughly examined by analytical centres. Currently the INTCEN supports strategic planning of the EU Military Staff, which begins immediately after the occurrence of a crisis. Currently, Member States aim to achieve political objectives in the field of security and defence creating so-called ‘coalitions of the willing’. Intelligence support must be directed at the preparation of the potential and the conduct of activities in geographically and politically different territories. We must remember that the architecture of the military part of the CSDP cannot go beyond its material competences.
2. Civil protection and humanitarian assistance – treated on the same logistic and operational level. It concerns the assessment of the potential disaster occurrence, the scale of the event that has already occurred, and the type and amount of required assistance. The analysis of the situation in the case of politically unstable regions outside the EU must be supplemented by the assessment of threats to the EU mission on the spot, including the assessment of risks to EU employees. Since the humanitarian aid decisions must be taken only in accordance with the needs and interests of the victims, humanitarian and aid interventions often cover the geographical areas beyond those covered by the activities in the field of EU crisis management.
3. Trade and development, including the protection of economic interests with regard to the actual diagnosis of the economic, financial, commodity and legal situation of partners, as well as the protection of own resources, including in particular trade secrets. The European Union as one of the richest areas of the world and does business with various countries and economic entities from all over the world. Intelligence is to examine whether the declarations submitted by contractors before concluding agreements are compatible with the facts.
4. Diplomacy based on intelligence reports recommending political solutions, and serving as a point of reference and an inherent component of decision-making processes. External intelligence must provide decision-

makers with basic assessments of the situation (reviews of entities and their interests in a particular area, forecasts, scenarios, threat assessment), verifying the true intentions of the parties<sup>38</sup>.

At the moment, reports and briefings which the INTCEN produces are primarily available to the High Representative of the Union for Foreign Affairs and Security Policy and to working groups of the Council, in particular the Counter Terrorism Working Group (COTER)<sup>39</sup>. Access to them is also available for senior officials of the European External Action Service (EEAS), senior Commission officials and representatives of the EU Member States sitting in the Political and Security Committee. Europol, Eurojust, Frontex are institutions which fall within the scope of entities that can receive the reports.

The main principle applicable in the process of making the INTCEN products accessible is called 'the need to know principle' and safety reasons. Intelligence knowledge is to be located in such a way that it follows the needs. In addition, access to the information possessed by the Council is available for members of the European Parliament (in line with the agreement reached between the European Parliament and the Council) positively verified and holding a security clearance in the area of classified information (labelled 'restricted', 'confidential', 'secret', 'top secret' depending on the level of access), but only in 'matters other than those in the area of the common foreign and security policy, which is relevant in order for the European Parliament to exercise its powers and function'<sup>40</sup>. EU classified information (EUCI) means any information or materials covered by the EU security classification, the unauthorised disclosure of which could harm the interests of

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<sup>38</sup> See more in: Müller-Wille, B. 2004. For our eyes only? Shaping an intelligence community within the EU. *Occasional Papers*, no. 50. European Union Institute for Security Studies, pp. 21–31.

<sup>39</sup> According to declassified documents of March 2007 the Counter Terrorism Working Group adopted 75 guidelines of the Centre, including on such issues as the threat to aviation security from Islamist terrorism, terrorists' access to weapons and explosives, anatomy of a terrorist network, the threat from North African extremists in Europe. See Doc. 15062/11 (24.10) (OR. en) Brussels LIMITE JAI 702 ECOFIN 656 EF 132 RELEX 991 ENFOPOP 336 COTER 7 of 17 October 2011. Cf. Doc. REV 4 REV4 LIMITE JAI 423 ECOFIN 353 TRANS 234 RELEX 639 ECO 136 PESC 1010 COTER 72 COSDP 810 PROCIV 174 ENER 172 ATO 103, of 30 November 2005.

<sup>40</sup> At the same time we should note that classified information provided to the Council by the Member States or third countries or international organisations and labelled with a national secrecy clause have the same status as one of the labels of secrecy clauses used in the EU.

the European Union or the interests of at least one Member State<sup>41</sup>. Only in a ‘having a need-to-know’ situation, access is also provided to other people who obtained a security clearance in accordance with the security regulations of the European Parliament, or who, due to their role, have been granted an appropriate authorisation in accordance with national laws and regulations. Regardless of the above, information bearing the clause ‘EU confidential’, or an equivalent clause, can be accessible also to those MEPs who in accordance with security regulations of the EP have been provided with instructions on the responsibility for its disclosure and have signed a solemn declaration that they will not reveal it<sup>42</sup>. An agreement on access of the Members of Parliament to classified information in the field of the Common Foreign and Security Policy of the EU is still under discussion. Access of the Members of the European Parliament to classified information held by the Council and the European External Action Service in the field of the CFSP is regulated by general provisions<sup>43</sup>. The Council specifies the conditions under which it

<sup>41</sup> See more in: Hoc, S. 2006. *Ochrona informacji niejawnych i innych tajemnic ustawowo chronionych*. [Protection of classified information and other secrets protected by law.] Opole; Gałach, A. 2004. *Bezpieczeństwo systemów teleinformatycznych w Unii Europejskiej*. [Security of IT systems in the European Union.] Gdańsk; Piątek, S. 2003. *Prawo telekomunikacyjne Wspólnoty Europejskiej*. [Telecommunications law of the European Community.] Warszawa.

<sup>42</sup> The last consensus is the agreement signed on 12 March 2014 between the European Parliament and the Council concerning the forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of the common foreign and security policy (Official Journal of the European Union C 95 of 01.04.2014). It concerns in particular: (a) proposals subject to a special legislative procedure or to another decision-making procedure under which the European Parliament is to be consulted or is required to give its consent, (b) international agreements on which the European Parliament is to be consulted or is required to give its consent pursuant to Article 218(6) TFEU, (c) negotiating directives for international agreements referred to in point (b), (d) documents on the activities of those Union agencies in the evaluation or scrutiny of which the European Parliament is to be involved. See. European Parliament Decision of 13 September 2012 on the conclusion of an inter-institutional agreement of 12 March 2014 between the European Parliament and the Council concerning the forwarding to and handling by the European Parliament of classified information held by the Council on matters other than those in the area of the common foreign and security policy 2012/2069 (ACI) (Official Journal of the European Union C 353 of 3.12.2013).

<sup>43</sup> The Council Decision (2013/488/UE) of 23 September 2013 on the security rules for protecting EU classified information (Official Journal of the European Union L 274 of 15.10.2013) which substituted the (2011/292/UE) of 31 March 2011 on the security rules for protecting EU classified information (Official Journal of the European

can exchange EUCI at its disposal with other institutions, bodies or agencies of the Union<sup>44</sup>.

It should be noted that kinds of reports produced by the INCTEN differ in terms of their substantial scope and updating frequency. The general assessment of the situation in the form of long-term strategic papers based on intelligence is updated every six months. Long term reports are created with regard to hazards and risk assessment in all places where the EU personnel is stationed. In addition, short-term special reports provide observation of a specific crisis situation or a specific event or have a nature of a thematic analysis focusing on the relevant issue. The third type of products are information summaries with a narrow range of intelligence scope dealing with a specific matter submitted for the analysis (current important events with a short intelligence based analysis). The basic sources for the INTCEN are: (a) reports provided by the security and intelligence services of the Member States, (b) open sources (press, media, websites, blogs, etc.), (c) diplomatic reports, (d) data coming from the network of consular posts, (e) reports from international organisations, non-governmental organisations, missions and operations, (f) finally, data from the European Union Satellite Centre. An important source of information are also documents and evaluations provided internally by other EU agencies, particularly within the Council, the Commission and the Parliament. It should be noted that the INTCEN,

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Union L 141 of 27.5.2011), and previous act: 2005/571/: Council Decision of 12 July 2005 amending Decision 2001/264/EC adopting the Council's security regulations (Official Journal of the European Union L 193 of 23.7.2005), and the one of 2001 (Official Journal of the European Union L 101 of 11.4.2001). As far as universal access to public information of the EU is concerned, the following regulations are in force: Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (Official Journal of the European Union L 145 of 31.5.2001).

<sup>44</sup> A proper framework can be provided for this purpose, including through accession to the inter-institutional agreements or other arrangements to that end. EUCI is to be protected according to its classification of secrecy and in accordance with the basic principles and minimum standards which are equivalent to those set out in Decision 2013/488/EU. If the Council finds that there is a need to exchange EUCI with a third country or an international organisation, it establishes an appropriate framework for such an exchange. According to the regulation in order to establish such a framework and define mutually applicable rules for the protection of exchanged classified information the Union concludes agreements on security procedures with third countries or international organisations. See Art. 12 and 13 the Council Decision of 23 September 2013 on the security rules for protecting EU classified information (2013/488/UE), (Official Journal of the European Union L 274 of 15.10.2013).

although it is the only institution within the EU whose nature is closest to classic intelligence, does not work on the basis of methods and techniques characteristic for intelligence. Information that comes to the Centre is not developed for, e.g., early warning and urgent evaluation. These are rather general data on the basis of which the INTCEN designs its own, usually equally general reports. William Shapcott, former director of the Joint Situation Centre (SitCen) stated that ‘the SITCEN can write a respectable analysis of the overall threat in Europe and the types of features that it has, but it will not help you much in judging what next week’s threat in Paris or London will be. There are other people better placed to do that’<sup>45</sup>. Much later, Catherine Ashton echoed stressing that ‘contributions depend on the availability of intelligence in the Member States’ services and the willingness to share them. Member States are not obliged to provide INTCEN with information or intelligence, leaving INTCEN subject to the whims of various Member State agencies’<sup>46</sup>.

Another issue is the matter of transparency in the functioning of the INTCEN. Transparency in the area of security is a necessity in democratic countries of law and their international associations, giving security authorities (including intelligence) legitimacy to act<sup>47</sup>. Taking into account the fact that INTCEN reports are intended for use in decision-making, a greater degree of democratic accountability and oversight is justified. Statewatch, a non-profit organisation founded in 1991, dedicated to monitoring of the public sector in the EU, exposed the problem of a lack of open notification of the public about the activities of the INTCEN. The European Ombudsman was notified about this issue. In the face of further complaints (and lawsuits) for failing to publish the data about the products of the Centre, the EU Council published an index of documents generated by the INTCEN. The table contains a list of produced documents. And so in the framework of the European External Action Service, in the first six months of 2012 166 documents were

<sup>45</sup> Jones, Ch. 2013. *Secrecy reigns at the EU’s Intelligence Analysis Centre – Analysis*. London: Statewatch Analysis, p. 2.

<sup>46</sup> *Ibidem*, p. 3.

<sup>47</sup> See more in: *Parlamentarny nadzór nad sektorem bezpieczeństwa. Zasady, mechanizmy i praktyki*. [Parliamentary oversight of the security sector: principles, mechanisms and practices.] Warszawa: Wydawnictwo Sejmowe 2004; Żebrowski, A. 2001. *Kontrola cywilna nad służbami specjalnymi III Rzeczypospolitej (1989–1999). Zagadnienia politologiczno-prawne*. [Civilian control over the secret services of the Third Republic of Poland (1989–1999). Issues of political sciences and law.] Kraków; Zalewski, S. 2003. *Służby specjalne (programowanie, nadzór, koordynacja)*. [Special services (programming, supervision, coordination).] Warszawa.

prepared, including 17 reports classified as 'secret', 129 'confidential' and 20 as 'restricted'. It is worth noting that 11 of the 20 documents classified as 'restricted' were purely internal. No document was marked 'top secret'<sup>48</sup>. The EU Council still does not publish thematic areas which the documents cover. It motivates the refusal to provide information on the issues covered by the INTCEN documents with a legal argument and common institutional practice of the EU. Providing information stumbles because of the limitation resulting from Art. 9 (3) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents which states that 'sensitive documents shall be recorded in the register or released only with the consent of the originator'<sup>49</sup>. Therefore, the institution may decide not to register sensitive documents, and thus not reveal their existence. It should be noted, however, that we can get to know their contents from the very title. For example, one of the documents bears the following description: 'the document contains information concerning the Syrian Revolutionaries Front – a group closely aligned with the Syrian Muslim Brotherhood that sprung up to coordinate weapons deliveries to the opposition')<sup>50</sup>. The General Secretariat of the Council, invoking Art. 9 of the Regulation believes that the disclosure could constitute a threat for persons described in the document. In addition, due to the sensitive content of the document, its disclosure would impede the EU's diplomatic efforts aimed at finding a solution to the ongoing crisis in Syria. The described case, however, gives us an insight into the subject of reports produced by the INTCEN.

It should be highlighted that the INTCEN works not only on the basis of its own sources, but also directly using analysts delegated from national intelligence agencies – as a result becoming a permanent point of coordination. The EU Council defines the general course of the activity of the INTCEN every six months. It most frequently comes down to monitoring global tensions and crises. The clarification of priorities takes place in the course of consultations within the working groups. Several interrelated parameters are crucial. Firstly, tasks of the Centre must have their order corresponding to the seriousness of challenges and the established schedule of activities. Secondly, the activity of the Centre should meet the needs of intelligence support for the Common Security and Defence Policy. Thirdly, the Centre

<sup>48</sup> See Jones, Ch. *Secrecy reigns at the EU's...*, pp. 3–5.

<sup>49</sup> Official Journal of the European Union L 145 of 31.05.2001.

<sup>50</sup> Jones, Ch. *Secrecy reigns at the EU's...*, p. 4.

must have sufficient resources and tools necessary for the preparation of accurate and reliable products. Fourthly, the agency must have a ‘multi-task’ nature. Fifthly, the INTCEN must have sufficient mobility and flexibility to be able to adjust the direction of the analysis to the development of current events in real time.

Taking into account the above criteria we must conclude that the INTCEN in the present form does not completely meet any of the above postulates. Though it manages to prepare analyses, reports and assessments of the international situation, the Agency still has much more modest resources than any serious national intelligence. However, its structure already deserves the label of an intelligence agency, at least due to the fact that its function corresponds to the essence of intelligence operation<sup>51</sup>. In this sense, the architecture of the functioning of the INTCEN can be a starting point for the initiation of a European debate. Further solutions can be proposed on the basis of the model of the operation of the Centre (the entity that already exists and is inscribed in the institutional order of the EU), its past experience and developed good practices.

Thus in the context of designing the architecture of intelligence cooperation in Europe whether in the widest perspective – of building a common intelligence policy, we should consider different variants of the system, from the most enhanced cooperation to modest coordination. In the most courageous scenario we are talking about a new European supranational agency equipped with the powers to regulate intelligence policy, with the possibility of assigning tasks to individual national bodies (objectively, subjectively and territorially) – as an instrument for developing foreign and defence policy which would be uniform for all Member States. One-direction policy, which would eliminate the possibility of its national sabotaging. The *sine qua non* condition would be the participation of all countries. National tasks could not be contrary to the Community tasks and activities would have to be centrally coordinated and accounted for. All agencies could ultimately work only for the common EU target.

In the most modest option the organisational model would be limited only to the coordination of the flow of certain information among countries

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<sup>51</sup> More on the topic of the INTCEN see Oberson, F. 1998. Intelligence cooperation in Europe: the WEU Intelligence Section and Situation Centre. In: Politi, A. ed. *Towards a European Intelligence Policy*. Chaillot Papers, no. 34. Paris: Institute for Security Studies; Molard, B. 1998. How the WEU Satellite Centre could help in the development of a European Intelligence Policy. In: Politi, A. ed. *Towards a European Intelligence Policy*. Chaillot Papers, no. 34. Paris: Institute for Security Studies.

wishing to jointly pursue specific policy objectives. It would not be possible to enforce the 'EU' will or assign tasks to national agencies. National intelligence agencies could continue to operate for the benefit of national political or economic objectives standing in evident contradiction with EU-wide objectives. The will to start intelligence cooperation with another country (exchange of information, a joint action) would result from its own volition or a response to the initiative of another state – *a contrario* it would not be in any way a legally binding bond. Between one model and the other there is a whole range of possibilities, methods and systems for carrying out intelligence cooperation<sup>52</sup>. In this respect, for theoretical needs, we can differentiate three main levels of a hypothetical coupling of intelligence at the European level. Each of these options represents a degree of the communitarisation of the intelligence system, understood as a conglomerate of all national and EU services. Their shape would depend on adopted policy assumptions. In practice, these systems can cross, being merely a form approximate to those presented below.

*A model maintaining the status quo with the necessity to expand the INTCEN*

In the model, the most modest situation would amount to the continuation of what exists today with minor changes aimed to improve the efficiency and rationalisation of the used means. Currently, the Member States retain full responsibility for their national security. Main contact channels would still be realised at the national level on the basis of political blocs, and in practice on the basis of the bilateral and multilateral exchange. The cooperation would take place alternately: (a) within the framework of existing alliances, (b) for a specific operation, (c) as a common, long-term initiative, (d) as a new alliance. The main determinant would be national interests of the Member States, not European solidarity. Joint intelligence decision making would take place only in the situation of convergence of interests. National agencies would provide only basic support for EU institutions in the area of relevant activities. Intelligence – as assigned to support the government of the EU – would work in a minimum scope; EU intelligence – understood as a common intelligence space of all Member States – would not exist at all. Due to the need to enable the INTCEN to develop its competence capacity,

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<sup>52</sup> On the topic of models of a European intelligence community see Müller-Wille, B. *op. cit.*, pp. 37–44.

*minimum minimorum* backstage demands would be realised. Thus, it is obvious that the level of employment would be increased. The extended INTCEN would probably include analysts from all Member States. The double-track system of supplementing human resources would be preserved. The current model of analysts delegated from national agencies, cooperating with permanent employees of the INTCEN would be maintained and expanded<sup>53</sup>. The distribution of intelligence products would be improved. Finally, perhaps, efforts would be undertaken to increase the legal legitimacy of the INTCEN operation. It is no secret that the Centre is poorly legally fixed. The opinion that it is a loose association of analysts is not far from the truth. It should also be assumed that at the discussion forum there would be a question of democratic control over the functioning of the operationally expanding ‘gray zone’ of the INTCEN. The deficit of rules governing the assignment of tasks and control (what the agency is allowed to do and how) is in the long run unacceptable in democratic countries. It concerns the problem of centring of two overlapping and conflicting philosophical values of ‘security’ and ‘privacy’. While the skilful combination of these two systems is extremely difficult at the state level, you can imagine the scale of the challenge for the community of a number of countries with very different legal and philosophical traditions (from Scandinavia where privacy was born, to the UK where security issues in the Euro-Atlantic system are crucial).

#### *A model of increased coordination*

In this model, the Member States, aware of geopolitical security requirements and the need for the implementation of increased coordination of political blocs, would decide to resign from intelligence competition at the national level. In return, benefiting from economies of scale, they would receive larger geostrategic security, in practice obtaining greater efficiency in return. Due to the fact that more powers would be transferred to the

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<sup>53</sup> This system has two main advantages. Firstly, a national official could be used by EU structures, at the same time retaining national competences. In this way it is possible to achieve the effect of dual utilisation of the same analyst. Secondly, it is decided at the national level what scope of access to classified information the national officer has, what authority he obtains in this sphere and finally what support from the national agency he can count on. This model would allow to avoid unnecessary misunderstandings in the scope of responsibility for the hierarchy and assigning tasks to individual agents, and in consequence it will not only directly increase the support of national bodies but will also in return eliminate political difficulties.

EU level, it would mean strengthening the protection of EU institutions themselves. The construction of such a system would require a redefinition of awareness of European decision-makers and Europeans themselves. We cannot talk about enhanced cooperation without a greater level of confidence in partners and the unanimous consent to the existence of European sovereignty. This sovereignty would have to be protected by the conscious, sincere and responsible participation of the Member States. Customers for products of domestic intelligence agencies would be not only national authorities, but also EU bodies and national agencies in other Member States.

In the context of shaping the architecture of this model, a primary task would be to plug European intelligence (cooperation/coordination) officially in the functioning of the EU. This would mean going beyond the zone of the EU, because it would include not only counterintelligence but also intelligence. All agencies should be associated with each other in such a way which would enable them to give and receive the necessary intelligence support. What is more, they should be in constant contact with potential customers. Necessary institutionalisation of cooperation would require making a decision – whether it would take place in the framework of expansion of the existing structures, or would be based on the creation of new mechanisms. The way of connecting EU agencies, the Member States and third parties, namely the architecture of the model – would have to be analysed. Measures covering the Common Foreign and Security Policy would in practice mean wider coordination of activities, including, among others, approximation of positions, staff exchange, joint actions, elimination of discrepancies, synchronisation, optimisation, allocation of responsibilities, mitigation of internal tensions, strengthening of the EU dimension, rationalisation of funds, etc.

Assuming that radical reforms would not be necessary, it would be worthwhile to consider the renewal and reorganisation of existing institutions which would facilitate the increase of operational functions and especially strengthen the harmonisation, re-territorialisation and rationalisation of activities. What should be also considered is the issue of the structural incorporation of Europol into the intelligence structure of the European Union, which could function according to the same principles as the American FBI – Federal Bureau of Investigation. Although the FBI is in fact federal police and deals mainly with criminal matters, it is also equipped with intelligence competences<sup>54</sup>. The FBI, the National Security Agency (NSA), the Central Intelligence

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<sup>54</sup> This community gained special importance after the terrorist attacks of 11 September 2001 and the entry into force of the Act entitled ‘Uniting and Strengthening America

Agency (CIA) and several other agencies co-create the so-called Intelligence Community system<sup>55</sup>. The EU intelligence capability could be easily increased by the functional and geographical extension of the powers of Europol. At the moment, the activity of Europol is allowed in the case of pursuing of crimes which materially cover two or more Member States. This means that Europol officers do not have the possibility to participate in joint investigation teams when a criminal activity concerns only one Member State, or if the criminal organisation covers only third countries. The institutional lack of support for Europol is all the more incomprehensible when you consider the fact that, in contrast to the INTCEN, Europol already has the necessary resources. At the moment approximately 800 officers are employed at the headquarters in the Hague<sup>56</sup>.

However, in the model of increased cooperation, regardless of the level of the involved funds and institutions, the principle of harmonisation of activities of national agencies at the EU level would apply consistently. It would still not be European intelligence in the full sense of the word, which would result in *de facto* impossibility of accountability for insubordination.

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by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001', that is the 'Patriot Act', which not only gave significant new measures and competences to all services but also demolished the so-called information wall. See Rogala-Lewicki, A. *Slużby specjalne a organy władzy państwowej – relacje instytucjonalne*. [Special services and state authorities – institutional relations.] Forum Studiów i Analiz Politycznych im. Maurycego Mochnackiego, [ISSN 2082-7997]. Available at: [http://www.fsap.pl/documents/publications/Slużby\\_Specjalne\\_a\\_organy\\_władzy\\_panstwowej.pdf](http://www.fsap.pl/documents/publications/Slużby_Specjalne_a_organy_władzy_panstwowej.pdf) [Accessed 20 January 2015].

<sup>55</sup> See Rogala-Lewicki, A. *Czy polskie służby specjalne potrzebują formuły Intelligence Community*. [Do the Polish special services need a formula of Intelligence Community?] Forum Studiów i Analiz Politycznych im. Maurycego Mochnackiego, [ISSN 2082-7997]. Available at: [http://www.fsap.pl/index.php?option=com\\_content&view=article&id=21%3Aczy-polskie-suby-specjalne-potrzebuj-formuy-intelligence-community&catid=7%3Acommnets&Itemid=9&lang=pl](http://www.fsap.pl/index.php?option=com_content&view=article&id=21%3Aczy-polskie-suby-specjalne-potrzebuj-formuy-intelligence-community&catid=7%3Acommnets&Itemid=9&lang=pl) [Accessed 20 January 2015].

<sup>56</sup> Europol, for example, cannot lend its expertise to fight organised crime to Macedonia, Albania, Serbia, and Montenegro. Meanwhile, people involved in international crime or terrorism do not know territorial boundaries. Europol's competence in the field of criminal intelligence and security might be needed for the proper assessment of threats. For this purpose Europol should cooperate closely with the INTCEN. What is more, it could take on the task of developing the intelligence support capacity for international police forces. For example, it could provide support for measures in the fight against terrorism at the request of a third country. Such an extension of Europol's capabilities would give the EU unique features.

*A model of full European intelligence (European Intelligence Agency)*

If national interests of the Member States were on one scale and European solidarity on the other – the latter would always have to be more important, regardless of whether the community means a convergence of interests of all countries. Such an approach would have to constitute the backbone of the communitised intelligence system. It is in fact a question about what is primary and more important. In the case of the two previous models, despite different levels of cooperation and coordination, national agencies would still be a decision-making axis. In this model, the European interest would be structurally above individual national interests. The Member States would have to subordinate themselves to the goals and objectives defined from the European perspective. A system built in this way would have to provide appropriate tools to crush any attempts of insubordination. A condition for the creation of a full European intelligence model would be European unanimity. Only then common intelligence would be able to provide support for the Union's unidirectional activities. Contradictory and politically multidirectional actions would effectively torpedo the operational functionality of intelligence. They would lead to overlapping and transversing of directions of activities. We would deal with a kind of intelligence paranoia or schizophrenia. Intelligence can serve and act in the interest of only one entity which has clearly defined priorities. The threat of the occurrence of any discrepancies would eliminate the implementation of this model. The second condition would be the establishment of a structurally uniform European intelligence agency, which would not only coordinate activities at the EU level, but would be an entity assigning tasks, defining goals and preparing tactics. National agencies would be institutionally and hierarchically subordinated to it. They would subjectively and locally realise tasks determined by the headquarters. National intelligence agencies would not be able to carry out any own tasks if the European agency did not know about them.

These are of course theoretical assumptions. The practice suggests that problems would accumulate already at the level of the implementation of the first of the above models. Most European politicians operating in the domain of defence and foreign policy give an affirmative answer to the question of whether it would be advisable to strengthen the competence and resources of the INTCEN. Almost all of them recognise benefits coming from the expansion of the information base of the European Union. Difficulties appear at the moment of the clarification of positions and general declarations – and that happens when the institutional framework already exists.

How then to explain the reluctance of the Member States to exchange information with other partners and with European institutions? How to explain the discrepancy between the general diplomatic declarations and the practice in the area of cross-border intelligence cooperation? Why for so many years of the functioning of the European community have countries failed to lead to the harmonisation of this dimension of EU activity? It is worth analyzing the nature of these dilemmas and obstacles<sup>57</sup>.

(A) The first reason is certainly the lack of trust. It is obvious that all intelligence agencies fear the disclosure of sources and methods of gathering information. Openness means a direct threat. The disclosure of operating methods means for the intelligence agency undermining of the foundations of its functioning and *de facto* its liquidation in the operational sense. Intelligence institutions must act covertly. ‘Trust and security are needed to protect the sensitiveness of information, the methods used to obtain it and, especially, the source. There is no ready-made, universal recipe for security. The multiplicity of cooperating agencies causes the multiplication of threats’<sup>58</sup>. Any form of cooperation means widening of access and thereby a circle of potential weak points of the system of protection of sources, methods of work and, finally, the information itself. Individual services are afraid that so-called ‘Trojan horses’ might be placed in their ranks. The level of trust among European Union countries, in spite of maintaining very close relations, is not high enough to ensure individual agencies the comfort of declassify their own resources. Therefore, although they recognise the benefits of cooperation, they are currently able to cooperate only in individual operations, or within a narrow and strict bloc of partners with a similar political-intelligence culture.

(B) The second motive is closely related to the first one and also concerns trust. In this case, however, it does not concern ‘internal’ but ‘external’ confidence. The practice shows that no European country wants to undermine its credibility in relation with a stronger partner with which it exchanges intelligence data. The United States, as the most important and the most powerful actor of the international political scene, remains a point of reference. Alessandro Politi, an expert in this subject, gives an example of British-American relations. ‘Another potent obstacle is the fear of spoiling

<sup>57</sup> On the obstacles blocking the formulation of a common European intelligence policy, see Politi, A. 1998. Why is European Intelligence Policy necessary? In: Politi, A. ed. *Towards a European Intelligence Policy*. Chaillot Papers, no. 34. Paris: Institute for Security Studies; Cf. Müller-Wille, B. op. cit., pp. 15–20.

<sup>58</sup> *Ibidem*.

privileged relationships with significant partners through increased European cooperation. The US agencies themselves have felt a sort of ambivalence vis-à-vis the relationship that the UK services have had with their European counterparts<sup>59</sup>. This syndrome applies to virtually all European countries. The United States pursues a policy of maintaining mainly bilateral relations with individual European countries. Thus it does not allow the formation of a solid European superpower bloc. All the other leading countries in the world behave similarly. Consequently, even the richest European countries are not in a position to independently obtain the international position which they had in the past. They are forced to maintain relations with the US which first and foremost guarantees their security. It is clearly visible every time in conflict-crisis situations. Then Europe relies on its bigger and stronger ally. Ultimately the US, which prefers to conduct an individual dialogue, determines to a large extent the cooperation model in the European Union. The lack of a European intelligence agency is in a way in the interests of the US. As long as there is no credible alternative to the US intelligence, the Europeans cooperating closely with the United States (receiving intelligence support from the Americans) will not create their own institutions of collective acquisition of information if it is contrary to the interests of the United States. European solidarity loses to the reality, i.e. to the fear of losing information liquidity and the decrease of the quality of own intelligence. Such a situation is not conducive to the independence of decision-making. This is a mechanism of a closed circle. As long as the Member States, maintaining close intelligence relations with the US, do not obtain the guarantee that support provided by a European intelligence agency will be more effective, or equally effective as that which their national agencies receive from the United States, they will not decide to establish it. The problem is that it is hard to ascertain this in a situation where the decision on its establishment is subject to the possession of experience in this field.

(C) The third explanation of the problem can be assigned to the ‘finance’ category. The creation of European intelligence administration is impossible without the participation of national agencies. However, differences in the amount of budgets of individual intelligence institutions in Europe are significant. As a result of this opening of the scissors richer parties may question the distribution of financing of the entire project. The richer may in fact not want to bear the cost of the ‘European project’, which would have other, more serious consequences for them. This would mean the necessity

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<sup>59</sup> *Ibidem.*

of providing access to resources developed for years for milliards of pounds or euro. Countries with fewer resources and capabilities would gain these fruits in a way for free. It is a question of the unequal level of contribution. Stronger countries might not wish to exchange resources with entities which in their opinion may contribute little to the project. On the other hand, institutional, national or substantive exclusions would mean a breach of the principle of European solidarity and would *de facto* nip the project in the bud.

(D) The fourth reason are practical dilemmas, in particular technical and logistical conditions. Modern threats require an immediate response in real time. Very often the situation becomes outdated within a minute. The findings made at the wrong time can have no operational value. Special services must be able to immediately adjust their resources and activities. The idea is to develop a functional and institutional model of cooperation which would be effective and meet the needs of the integration of activities of a dozen of agencies. It is possible to imagine the size of logistic obstacles of different provenance. The problem of the language would be the most characteristic. Transmission of information does not make sense if the recipient cannot understand it. Meanwhile, it is impossible to make a perfect translation, especially in terms of nuances, cultural and meaning contexts, unique to a particular language. Translation of reports at the time when they are produced into languages of other agencies would constitute a serious additional cost and lengthen the priceless time. On the other hand, this complaint can be repelled by means of the argument that currently in the EU 24 languages have the official language status and the institutions operate smoothly, although it requires considerable outlays<sup>60</sup>. National agencies may not have the resources allowing them to maintain linguistic interoperability with all other intelligence entities operating in the European Union.

In the context of maintaining an effective level of communication and interoperability we should also mention the obstacles of a technical nature. A single ITC system is also needed to effectively fasten together the range of diverse intelligence agencies. It also concerns software facilitating common, trouble-free operation, while maintaining technological neutrality and ensuring security against attacks from outside. Considering the fact that individual national agencies may have their technical preferences, use ‘their’ proven IT systems (based on their ‘own’ codes), making a coupling allowing for effective cooperation could prove to be a very difficult task.

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<sup>60</sup> In 2007 the last of them – the Irish language – obtained this status, with the reservation that the Irish side will finance the translations.

(E) The fifth determinant pertains to legal and institutional factors. Suffice it to say that within the intelligence community states with very different traditions of legal systems would have to function: from common law systems to statutory law ones. National legislation would be an element which would rather impede cooperation. All of these components, which from the normative point of view would remain outside the sphere of harmonisation – would lead to practical discrepancies. An example can be national legislation in the sphere of access and exchange of classified information. Another exemplification can be the organisation of national intelligence systems (different in terms of the general competence distribution).

(F) Another barrier can be broadly understood cultural differences. In the worst case, the conduct of the operation can be torpedoed by misunderstanding of partners' intentions. Societies, ethnic groups operate on the basis of cultural codes, often unique to them. It concerns a system of values, traditions, norms, experience, history. A striking example are the same gestures which have a completely opposite meaning in different societies. Cultural differences affect the work culture. It is worthwhile to recall the example of differences existing between the north and the south and the east and the west of Europe.

(G) Another barrier that may be important in the perspective of building a European intelligence community is the widely occurring natural tendency to maintain the existing institutions. Max Weber, a German sociologist, economist, lawyer and political theorist<sup>61</sup>, formulating the classic definition of bureaucracy (professionalism, specialisation, hierarchy, general standards) stressed that in practice administration is a structure which is inefficient and dysfunctional by its nature (just like Michel Crozier and William Niskanen<sup>62</sup>) because it constantly grows and responds with increasing difficulty to varied needs of society<sup>63</sup>. Once created, institutions have a natural tendency to sprawling, inertia, appropriation of areas of activity, and finally, survival.

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<sup>61</sup> The author of famous works: *Etyka protestancka a duch kapitalizmu*. [The Protestant ethic and the spirit of capitalism.] and *Gospodarka i społeczeństwo* [Economy and society].

<sup>62</sup> Niskanen, W. 1994. *Bureaucracy and public economics*. Cheltenham; Niskanen, W. 1971. *Bureaucracy and representative government*. Chicago; Crozier, M. 1964. *The bureaucratic phenomenon*. London.

<sup>63</sup> In turn, Robert K. Merton, an American sociologist, one of the most eminent representatives of functionalism, describing this dysfunctionality used the term 'syndrome of trained incapacity'. See Robert Merton, K. 2002. *Teoria socjologiczna i struktura społeczna*. [Social theory and social structure.] Warszawa, pp. 60–69.

None of the existing national intelligence agencies would be pleased with the prospect of losing competences, privileges, or sovereignty.

(H) The last but it seems that the most important barrier is a political issue. It concerns mainly ensuring the influence and importance of the country. This is a historic but still widely prevalent view of the practice of international politics. The competition and rivalry between nations dominates in it. It is characterised by the focus on achieving goals only from the point of view of the realisation of own interests, mostly in opposition to the interests of others. The given state does not want other countries to have information it has at its disposal. It is perceived by many as a threat and a negative balance of losses and benefits. This traditional selfishness often does not take into account the perspective of new civilisational conditions, including the globalisation of information transfers. This is a game of a ‘win-lose’ type. The superiority of intelligence is regarded not just as an important component of operational success, but as strengthening of the position and status of the country. The aim of intelligence is to mislead others, pervert, hide true intentions, fake intentions, deceive – all in order to gain advantage. Cooperation in this area is synonymous with the loss of influence, credibility, selling out sources, information failure. Cooperation is not treated in terms of resource optimisation based on the ‘win-win’ principle, but as a risk<sup>64</sup>. Taking into account the fact that the majority of intelligence agencies were established in Europe during the Cold War or earlier and over the years have developed their *esprit de corps* without the need for cooperation, the organisation of intelligence involving the transfer of competence would be not so much a reform but a revolution<sup>65</sup>.

Other threats of a political nature, which cannot be overlooked are risks associated with: (a) ideologies (national populism and nationalism), (b) changes of governments and political leaders (political instability), (c) disregard for smaller players (no opportunities to defend their positions).

We should agree with the opinion of Antoni Podolski, a researcher of security systems, who stresses that ‘insufficient information exchange in the EU is largely the result of difficulty in combining security structures occurring everywhere, it is also the confirmation of the fact that EU integration in the sphere of foreign, defence and security policy (CFSP and ESDP) is the

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<sup>64</sup> This principle, usually seeing a wider and long-term perspective, provides the satisfaction of all parties and is widespread among entrepreneurs, and rarely occurs in politics. It can be assumed that it is a more sophisticated formula of coexistence on the stage where there are a lot of actors.

<sup>65</sup> Cf. Friedman, G., Friedman, M., Meredith, M., Chapman, C. 1997. *The intelligence edge: how to profit in the information age*. New York.

weakest<sup>66</sup>. It can be assumed that the most important barrier is the desire to maintain the advantage by the biggest states. We cannot forget that one of the biggest, yet most frequently unsaid secrets of classified intelligence institutions is spying on own friends. It concerns in particular technological and economic espionage. Intelligence agencies often operate balancing on the edge of the law.

In summary, the transfer of competences of services to the level of Brussels would mean, firstly, the disclosure of the truth concealed for years (i.e. English intelligence imposes on its employees the clause of one-hundred-year secret protection under the threat of loss of pension rights), and secondly – the necessity to deal with the problem of exercising democratic control, thirdly – questioning of good relations with the US, as a guarantor of European security. Antoni Podolski aptly outlines these issues. ‘Unofficially, the question of relations with the US also appeared as an obstacle to European integration, specific Europeanisation, of intelligence. For the UK the establishment of a European agency with the participation of France could mean exposure to the risk of losing the confidence of the Americans and weakening the quality of bilateral cooperation between MI6 and the CIA. For the same reason the French feared a British Trojan horse in the European intelligence community, which could provide some information to the Americans.

It should also be emphasised that an objective reason for the difficulty in closer integration of intelligence, security or police services at the EU level is the lack of such coordination, often already at the national level. There is no single European model of organisation and coordination of security and intelligence services. These services not only have different tasks and powers, but also different formal placement – as independent agencies or agencies subordinated to the ministries of justice, internal affairs, foreign affairs, defence, as civil or military services, as information-operational or operational-investigative services, centralised in the state or even partially decentralised (Land Offices for the Protection of the Constitution in Germany). What is also different is the range of formal and informal cooperation and exchange of information between them and coordination of their work by higher instances<sup>67</sup>.

<sup>66</sup> Podolski, A. 2004. Europejska współpraca wywiadowcza – brakujące ogniwo europejskiej polityki zagranicznej i bezpieczeństwa? [European intelligence cooperation – a missing link of European foreign and security policy?] *Raporty i Analizy*, no. 10. Warszawa: Centrum Stosunków Międzynarodowych, p. 1.

<sup>67</sup> Ibidem, p. 5. Cf. Herman, M. 2002. *Potęga wywiadu*. [The power of intelligence.] Warszawa; Kessler, R. 1994. *CIA od środka*. [Inside the CIA.] Warszawa; De Villemar-

Therefore, in the space of European security we are dealing with the still existing problem of the lack of trust in official European partners. Moreover, it is a question of the organisational structure and cooperation model. The point is that the realisation of the concept of common intelligence would enforce the necessity to combine different intelligence cultures (countries spying on each other), with still different interests (usually mutually exclusive). These conflicting mechanisms and institutions would have to form one body.

Using a paraphrase – security space, just like life, does not tolerate a vacuum. Despite the occurrence of the above obstacles of varying provenance, which most often cross-penetrate one another, practitioners more boldly mention the formally unrealised dimension of the Common European Intelligence Policy. The voices calling for the establishment of a future European Intelligence Agency cease to be political science fiction.

In 2004, Austria officially raised the idea of establishing a European Intelligence Agency. But it was not the inauguration of such initiatives. ‘The idea of a European Intelligence Agency was not born after the tragedy in Madrid or even after 11 September 2001. It was present in the long-term discussion on the mechanisms of formation of European foreign policy, security policy (CFSP) and defence policy (ESDP), in deliberations conducted in particular within the framework of the Western European Union (WEU). One of the reasons was the experience of complete vulnerability and dependence of European countries on the US intelligence during the first Gulf War (1990-1991) and the intervention in Bosnia in the mid-decade (IFOR). The forecasts that the first High Representative for the CFSP, former NATO Secretary General Javier Solana, would want to have intelligence information at his disposal were confirmed. (...) It was clear both for analysts and politicians that if the common foreign, security policy and defence policy should not remain a paper record, they would require the introduction of, among others, instruments such as information and analytical facilities using, among others, intelligence information’<sup>68</sup>.

We should be aware that it is the reality, or rather needs that trigger specific reactions. If we cannot talk about the European common intelligence policy in institutional terms, it is just because there is no political will yet. This does not mean, however, that such a political intention will not appear in the future. We can definitely talk now about the constantly developing coopera-

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est, P. 1998. *GRU – sowiecki super wywiad*. [*GRU – Soviet super-intelligence*.] Warszawa; West, N. 1999. *MI-5*. Warszawa; Westerby, G. 2001. *Na terytorium wroga. Tajemnice Mosadu*. [*In hostile territory: business secrets of a Mossad combatant*.] Warszawa.

<sup>68</sup> *Ibidem*, pp. 3–4.

tion and expansion of information factors in Europe. On the horizon there is a prospect of responding to more and more serious challenges. The European Union has participated for years in many military and police operations, has taken part in multilateral peace and stabilisation negotiations, finally has undertaken its own stabilisation activities, including disarmament, humanitarian and rescue tasks, military advice and support, or conflict prevention and peacekeeping. Certainly, over time, the catalogue of these measures will expand both geographically and materially.

Despite difficulties and many obstacles Alessandro Politi from the European Union Institute for Security Studies<sup>69</sup> boldly concludes that in the near future the Member States will have to move away from a narrow national attitude also in the field of intelligence security if they want to continue to play an important role in the international arena<sup>70</sup>. This is a kind of political necessity. Politi suggests that the establishment of European intelligence policy is a necessity if the EU wants to be successful in the competition with such global players as the US, Russia, China, India, and Japan. Other political circumstances point to the irreversible need for coordination of intelligence goals and objectives at the European level. Only in this formula, it is possible to eliminate unnecessary disturbances and duplication of activity<sup>71</sup>.

Politi notes that 'the EU member countries will have to break away from their narrow concept of national sovereignty if they are to become influential international actors. (...) In this context it appears necessary to re-think the role of national intelligence agencies in the EU context and the possibility

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<sup>69</sup> The European Union Institute for Security Studies, with the headquarters in Paris, is an agency of the European Union for Common Foreign and Security Policy (CFSP). Its main tasks encompass promoting a common security culture in Europe, participation in the development and shaping of the CFSP and in the discussion on key issues relating to security in Europe. The Institute conducts research on the EU's relations with the United States, Western Balkans, Africa, the Mediterranean countries, the Middle East, Russia, Eastern Partnership countries, Asia, as well as examines issues such as fight against terrorism, disarmament and non-proliferation of nuclear weapons, conflict prevention, development and globalisation as well as the EU enlargement. See Council Joint Action 2001/554/CFSP of 20 July 2001 on the establishment of a European Union Institute for Security Studies (Official Journal of the European Union L 200 of 25.07.2001), Council Joint Action 2006/1002/CFSP of 21 December 2006 amending Joint Action 2001/554/CFSP on the establishment of a European Union Institute for Security Studies (Official Journal of the European Union L 409 of 30.12.2006).

<sup>70</sup> See Politi, A. op. cit., p. 17.

<sup>71</sup> Cf. Wetzling, T. 2006. Europejskie zarządzanie wywiadem. [European intelligence governance.] *Międzynarodowy Przegląd Polityczny*, no. 4 (16).

of enhancing multilateral intelligence cooperation. So far each crisis faced by the countries of EU demonstrates not only that effective intelligence is a pre-requisite for devising and implementing appropriate solutions, but that, when intelligence efforts have been uncoordinated, these countries have often faced the prospect of utter impotence. European intelligence agencies are not able to on a purely national basis, manage an ever increasing workload of crises that erupt both on their doorstep and in far-flung places<sup>72</sup>. Now, when the information revolution has reached its shape and has gained wide acceptance, intelligence is facing the task of adapting to new realities. It must find answers to the challenges of globalisation, digitisation, tabloidisation and massification of information. Politi sees new functions of intelligence. 'Intelligence has acquired considerably more importance than it had during the Cold War. Whereas before it was needed to maintain the balance of terror, prevent a war in Europe, its tasks now are much wider and more varied, since it helps politicians to steer their national course towards a new world order, new power constellations and economic developments, while avoiding new and old risks'<sup>73</sup>.

It is a fact that despite audible objections Europe every day permanently follows the path to deeper and deeper economic and political unification. Hence, the questions about integration of the European area of intelligence are more distinctly posed. Perhaps it is almost time to start thinking about this concept more seriously.

## SUMMARY

Paradoxically, what constitutes an obstacle to the launch of European intelligence policy may be its advantage. Common intelligence means team security management, better control of flows of supplies (including weapons), more effective fight against terrorism and organised crime, more efficient conflict prevention, it is the result of accumulated knowledge and experience, effective support for the European diplomatic corps, unified economic intelligence, and finally combined counterintelligence forces. Each of these tasks can be reasonably divided 'targeting' specific duties, assigning threats to individual sites and services, specialising activities, and consequently splitting the risk. When a reaction is tailor made in relation to threats its effective-

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<sup>72</sup> Politi, A. op. cit., p. 17.

<sup>73</sup> Politi, A. op. cit., p. 17.

ness increases. We cannot forget about cost savings. Why spend (as Europe) money on the same thing? Each agency pays for gaining specific information. In the model of joint intelligence its specialised cell will obtain information and pass it to the others.

European countries must understand that in the face of global challenges only as a single entity they can successfully compete with other, increasingly stronger players. It is a matter of a pragmatic synergy. Politi has no illusions as to the needs in this sphere. 'Since intelligence objectives and methods are not determined by some abstract political requirement but are driven by an individual intelligence service that is trying to anticipate and satisfy the needs of its political masters, a European intelligence policy need not be a highly formalised and institutionalised affair. It should be perceived and practised rather as an alternative culture which may shape the collective behaviour of the services concerned. However, the word "policy" implies more than simply a different *modus vivendi et operandi*, because a choice in the sharing of information is linked to specific security and strategic assessments'<sup>74</sup>.

Björn Müller-Wille from the training centre of officer corps of the British Army (Royal Military Academy Sandhurst) thinks that a common intelligence agency is a prerequisite for increased coordination at the operational level. No European state will decide to provide its own intelligence agencies, acting on the basis of national rules. Therefore, a separate European body should be established, which could regulate the flow of information between European partners. This body would also have the opportunity to incorporate the results of work of others entities, or European initiatives, including Europol, into the intelligence information package. Müller-Wille envisions the establishment of the so-called European Intelligence Communication Network, mechanisms of which would allow for a successful launch of transfer of classified information in Europe<sup>75</sup>.

In turn, Antoni Podolski's summary is more realistic. 'As due to purely practical, logistical and financial obstacles individual European countries are not able to conduct comprehensive, total intelligence according to the model of world powers, allowing them – both as the entire Union and its individual members – to better respond to the threats of the modern, globalised world – from terrorism to economic crises, a logical solution would be at least an attempt to create something like a Common European Intelligence Policy (ECIP) as the technical base of the Common Foreign and Security

<sup>74</sup> *Ibidem*, pp. 17–18.

<sup>75</sup> See Müller-Wille, B. *op. cit.*, p. 17.

Policy (CFSP). A causative condition should be here the Europeanisation of national intelligence agencies – similar to the definition of Europeanisation of foreign policies of the Member States described in the literature. A next step in the Europeanisation of intelligence agencies and the creation of the Common European Intelligence Policy would be the division of tasks depending on the operational-information potential of the national service – e.g. French intelligence is traditionally interested in Africa and Spanish in South America, intelligence agencies of the new Member States also have some experience in the field of post Soviet Union countries and the Balkans or the Middle East. What is also possible is the wider use by the EU analytical-intelligence structures of information and analyses of non-governmental, private, scientific and related to the economy research centres based on the so-called white intelligence<sup>76</sup>.

Regardless of the degree of progressivity of views of individual theorists, we can obviously see the natural need to strengthen coordination and collaboration of the intelligence division in the European Union. In the face of new needs and challenges, it seems that this process will proceed exponentially. It will be impossible to realise this strengthening without a decision of an institutional nature. What is needed is the development and formal implementation of the European intelligence policy – regardless of the area of competence of entities falling within its scope.

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<sup>76</sup> Podolski, A. op. cit., pp. 12–13.

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## EUROPEAN INTELLIGENCE COMMUNITY – THE UNFULFILLED PILLAR OF THE EUROPEAN UNION

### Summary

Taking into account wider autonomous competences at the European level and the appreciation of the information phenomenon – the need for a redefinition of the role, function and place of intelligence is outlined (not only in the structure of the state but also in the global transnational alliances). Europe needs a common sense of security, unified threat perception, and thus joint risk assessments. For this reason, the EU must provide a framework for intensifying cooperation, at least by developing intelligence community – matched with declared political ambitions of Europe. The question is whether the EU needs specially dedicated intelligence agencies in this regard, or if intuitions operating at the level of the EU and the Member States are sufficient. And if so, which agencies – and how constructed and communitarised. If the European Common Intelligence Policy cannot be treated in institutional terms, it is only because of the lack of political will. Obstacles are among others: lack of trust, finances, loss of foreign partners, technical and logistical issues, legal and institutional aspects, cultural differences, politics and ideology. In the case of a change of political will, and preparing proposals for solutions, one can talk about the extension of the current model retaining the *status quo* or an increased cooperation model, or a model of full European intelligence with the European Intelligence Agency at the helm.

## EUROPEJSKA WSPÓLNOTA WYWIADOWCZA – NIEZREALIZOWANY FILAR UNII EUROPEJSKIEJ

### Streszczenie

Biorąc pod uwagę zjawiska: poszerzania autonomii kompetencyjnej na poziomie UE oraz aprecjacji znaczenia uwarunkowań informacyjnych – wyraźnie zarysowuje się potrzeba dokonania redefinicji roli, funkcji i miejsca wywiadu nie tylko w strukturze państwa, ale również w przestrzeni globalnych aliansów ponadnarodowych. Europa potrzebuje wspólnego poczucia bezpieczeństwa, jednolitego postrzegania zagrożeń, a tym samym wspólnych ocen

ryzyka. Z tego względu UE winna zaoferować ramy zintensyfikowanej współpracy, co najmniej rozwijając tzw. społeczność wywiadowczą – dopasowaną do deklarowanych ambicji politycznych Europy. Pytaniem pozostaje kwestia tego, czy UE potrzebuje pomocy specjalnie dedykowanych, wspólnotowych agencji wywiadowczych, czy wystarczają jej instytucje już funkcjonujące na poziomie unijnym i poszczególnych państw członkowskich. A jeżeli tak, to jakich agencji – jak skonstruowanych i jak uwspólnotowionych. Jeżeli o europejskiej wspólnej polityce wywiadowczej nie można mówić w kategoriach instytucjonalnych, to tylko dlatego, że nie ma na razie takiej woli politycznej. Przeszkodami są m.in.: brak zaufania, finanse, utrata partnerów zagranicznych, kwestie techniczno-logistyczne, aspekty prawno-instytucjonalne, różnice kulturowe, polityka, czy ideologia. W przypadku zmiany woli politycznej, w kontekście propozycji rozwiązań można mówić o rozbudowywaniu dotychczasowego modelu zachowującego *status quo*, modelu zwiększonej współpracy, bądź modelu pełnego wywiadu europejskiego z Europejską Agencją Wywiadowczą na czele.

## ЕВРОПЕЙСКОЕ РАЗВЕДЫВАТЕЛЬНОЕ СООБЩЕСТВО – НЕЗАДЕЙСТВОВАННЫЙ ОПЛОТ ЕВРОПЕЙСКОГО СОЮЗА

### Резюме

Принимая во внимание следующие явления: расширения автономии полномочий на уровне ЕС, а также оценки значимости информационных обусловленностей, – заметно вырисовывается потребность осуществления переопределения роли, функции и места разведслужб не только в структуре отдельного государства, но и на уровне глобальных транснациональных альянсов. Европа нуждается в наличии общего ощущения безопасности, единого восприятия угроз, и, таким образом, совместных оценок степени риска. Исходя из этого, ЕС должен представить границы усиленного сотрудничества, как минимум с учётом развития так называемого разведывательного сообщества – применительно к заявленным политическим амбициям Европы. Открытым остаётся вопрос о том, нуждается ли ЕС в помощи специальных подготовленных для нужд сообщества разведслужб, или для него достаточно наличие институтов, которые уже функционируют на уровне ЕС и отдельных государств-членов ЕС. А если нуждается, то в каких службах – каким образом организованных и в какой степени выдержанных в рамках и интересах сообщества. Если о европейской единой разведывательной политике

нельзя говорить с институциональной точки зрения, то только потому, что пока не существует соответствующая политическая воля. Среди препятствий можно, в частности, назвать: отсутствие доверия, финансы, потеря иностранных партнёров, вопросы технического и логистического характера, правовые и институциональные аспекты, культурные различия, политика, идеология. В случае изменения политической воли, в контексте предложенных решений можно говорить о расширении прежней модели, сохраняющей *status quo*, модели усиленного сотрудничества, или же модели европейской разведки в её совокупности и во главе с Европолом.