

## **Written opinion**

**JOIN (2018) 5**

**JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT AND TO THE  
COUNCIL on the Action Plan on Military Mobility**

**ASSEMBLY OF THE REPUBLIC**  
**EUROPEAN AFFAIRS COMMITTEE**

**PART I - INTRODUCTION**

In accordance with Article 7 of Law No 43/2006 of 25 August 2006 on monitoring, examination and issuing of opinions by the Assembly of the Portuguese Republic in the context of the process of EU integration, as amended by Law No 21/2012 of 17 May 2012 and Law No 18/2018 of 2 May 2018, and in accordance with the Guidelines for the scrutiny of EU initiatives, as approved on 1 March 2016, the European Affairs Committee received the JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the

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Action Plan on Military Mobility [JOIN (2018) 5].

Given the subject matter, the above initiative was referred to the National Defence Committee, which analysed it and approved the report attached to and forming an integral part of this Opinion.

**PART II – BACKGROUND**

1. The initiative in question is the JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT AND TO THE COUNCIL on the Action Plan on Military Mobility.

2. The initiative begins by referring to President Juncker's statements on the imperative need to create a fully-fledged European Defence Union by 2025.

In this context, it states that the EU is already taking the necessary steps to build a more effective, responsive and joined-up Union, capable of pursuing the EU's shared interests and priorities in promoting peace and guaranteeing the security of its citizens and territory, as also called for in the Global Strategy for the EU Foreign and Security Policy.<sup>1</sup>

*The European Defence Action Plan and in particular the European Defence Fund show Europe's commitment to taking bold action in support of Member States. Improving military mobility in the European Union is one of the practical steps to that end, hence contributing to building a Union that protects, where solidarity and mutual assistance<sup>2</sup> are implemented effectively.*

3. In this regard, it should be recalled that 25 EU Member States have decided to include military mobility among the more binding commitments that they have made under the Permanent Structured Cooperation launched on 11 December 2017.<sup>3</sup>

On 6 March 2018, the Council also adopted a Recommendation concerning the roadmap for the implementation of Permanent Structured Cooperation and a Decision establishing the list

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<sup>1</sup> The Global Strategy for the European Union's Foreign and Security Policy, Foreign Affairs Council Conclusions, 14 November 2016.

<sup>2</sup> Article 42(7) TEU.

<sup>3</sup> <http://www.consilium.europa.eu/media/32000/st14866en17.pdf>

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of projects to be developed in the context of Permanent Structured Cooperation.<sup>4</sup>

In December 2017, military mobility was added to the common set of new proposals<sup>5</sup> for the implementation of the EU-NATO Joint Declaration of July 2016.<sup>6</sup> Furthermore, the European Council in December 2017<sup>7</sup> invited the High Representative, the Commission and the EU Member States to bring work forward on military mobility, both under Permanent Structured Cooperation and in the context of EU-NATO cooperation.

4. Indeed, the initiative states that, building on the roadmap developed by the ad hoc working group on cross-border military transportation within Europe in the framework of the European Defence Agency, the action plan aims to provide a coherent framework for the ongoing and future programmes, projects, initiatives and activities. This will allow for a more coordinated EU approach, strengthening solidarity among Member States and improving the EU's added value.

A better mobility of forces within and beyond the EU will enhance European security by enabling the EU Member States to act faster, in line with their defence needs and responsibilities, both in the context of Common Security and Defence Policy missions and operations and in the context of national and multinational activities (e.g. in the framework of NATO).

5. In this respect, the initiative states that working closely with the EU Member States, including all their relevant actors, is key for the implementation of the action plan and that *this will be done in full respect of the sovereignty of EU Member States over their national territory and national decision-making processes regarding military movements.*

Further to that, *steps to enhance cooperation between the EU institutions, agencies and bodies and the competent national authorities within the EU Member States will be taken in full respect of the different competences of the actors involved.*

Close coordination between the action plan and the Permanent Structured Cooperation

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<sup>4</sup> <http://www.consilium.europa.eu/media/33064/council-recommendation.pdf>

<sup>5</sup> <http://www.consilium.europa.eu/media/31947/st14802en17.pdf>

<sup>6</sup> <http://www.consilium.europa.eu/media/21481/nato-eu-declaration-8-july-en-final.pdf>

<http://www.consilium.europa.eu/media/31947/st14802en17.pdf>

<sup>7</sup> <http://www.consilium.europa.eu/media/32204/14-final-conclusions-rev1-en.pdf>

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project on military mobility also needs to be ensured in order to achieve complementarity of results.

6. In this context, the importance of further cooperation with NATO on military mobility in the framework of the implementation of the EU-NATO Joint Declaration is also highlighted. The initiative thus states that, in line with the Council conclusions of December 2017, cooperation and consultation with NATO is taking place at staff level, through regular meetings, on issues of military mobility in all domains (land, maritime, air).

7. Lastly, as stated in the initiative, the Action Plan on Military Mobility has been submitted by the High Representative and the Commission to the EU Member States for consideration and endorsement, which will allow for its implementation in a timely and coordinated manner. *It should be considered a living plan, subject to possible subsequent revisions, as appropriate. Periodic progress reports on the implementation of the action plan will be presented to the EU Member States by the High Representative and the Commission as appropriate, with the first to be submitted by summer 2019, in addition to the annual reporting of the European Defence Agency to the Member States' Defence Ministers.*

**PART III – OPINION**

In the light of the information set out above and the report by the relevant committee, the European Affairs Committee is of the opinion that:

1. There is no need to assess compliance with the principle of subsidiarity since this is a non-legislative initiative.
2. This concludes the scrutiny of this initiative.

Palácio de São Bento, 16 October 2018

**Rapporteur**  
***[signed]***  
**(Rubina Berardo)**

**Chair of the Committee**  
***[signed]***  
**(Regina Bastos)**

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**PART IV - ANNEX**

Report by the National Defence Committee



**ASSEMBLY OF THE REPUBLIC**  
National Defence Committee

Report  
**JOIN (2018) 5 final**

**Rapporteur:**  
José Miguel Medeiros, Member of Parliament  
(Socialist Party)

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JOIN (2018) 5 final — JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT AND TO THE COUNCIL on the Action Plan on Military Mobility

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## **PART I - INTRODUCTION**

In accordance with Law No 43/2006 of 25 August 2006, as amended by Law No 21/2012 of 17 May 2012, on monitoring, examination and issuing of opinions by the Assembly of the Portuguese Republic in the context of the process of EU integration, the European Affairs Committee sent the JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT AND TO THE COUNCIL on the Action Plan on Military Mobility (JOIN (2018) 5 final) to the National Defence Committee for analysis and to draw up this report, José Miguel Medeiros having been designated as the rapporteur.

## **PART II - BACKGROUND**

### **1. Explanatory memorandum**

Military mobility is among the more binding commitments made as part of Permanent Structured Cooperation, in line with Jean-Claude Juncker's stated aim of creating a fully-fledged European Defence Union by 2025.

The action plan advocates enhancing European security by improving the mobility of forces within and beyond the EU, thus enabling more rapid, and therefore more effective, responsive and joined-up,<sup>1</sup> action. It complements the Permanent Structured Cooperation project on military mobility, while not forgetting further cooperation with NATO, and is without prejudice to the specific features of the security and defence policies of the Member States.

The roadmap developed by the ad hoc working group set up within the European Defence Agency, on which the action plan builds, focuses on improving the following four aspects of military mobility: legal aspects, customs, military requirements, including infrastructure-related military standards, and cross-border movement permissions, including diplomatic clearances.

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<sup>1</sup> As called for in the Joint Communication on improving military mobility in the EU of November 2017 and the Global Strategy for the EU Foreign and Security Policy.



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With regard to the development of military requirements, the identification and endorsement of which will form the starting point for an effective approach, the Communication identifies the action to be taken by the European External Action Service / EU Military Staff, in cooperation with the Member States, the Commission and the relevant EU agencies and bodies, and in consultation with NATO as appropriate. They will subsequently be considered and validated by the Council.

The European Commission describes the transport infrastructure policy as an opportunity to *'increase synergies between defence needs and existing EU policies, and in particular the trans-European transport network (TEN-T)'* and for *'demonstrating the EU's added value and ensuring a more efficient use of public money'*.

The Joint Communication informs us of the usefulness, for the countries of the North Sea–Baltic Corridor of the trans-European transport network,<sup>2</sup> of the pilot exercise launched in 2017 by the Estonian Presidency with the aim of testing the viability of an EU-wide approach. First, the pilot exercise made it possible to identify weak points in Member States' transport networks for military purposes, confirm that the methodology applied works and set priorities. The intention is to extend the pilot exercise to evaluate the viability of the infrastructure for transporting military personnel and material and possibly to develop additional infrastructure and upgrade the requirements. Accordingly, the Commission calls on the Member states to *'establish, as soon as possible, a single point of contact for information on access to transport infrastructure for military purposes'* and to *'consistently take military requirements into account when building transport infrastructure'*.

The European Commission emphasises the involvement of the Member States and the Commission in the negotiations for land transport of dangerous goods for civilian use and stresses that, for military transport, which is subject to national rules, it is important to align the rules applicable to the armed forces with EU legislation.

With a view to increasing safety and creating synergies and coherence, the Commission plans to conduct a survey covering national provisions, the definition of needs, the suitability of existing civilian harmonised rules and the possible need for additional

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<sup>2</sup> The Netherlands, Belgium, Germany, Poland, Lithuania, Latvia, Estonia and Finland.

provisions or adjustments.

In view of the difficulties reported to the Commission with regard to customs procedures, in particular concerning the temporary export and re-import of military goods, the Commission states that it will carry out an analysis of form 302 and the need to develop a European template for cases where the existing form cannot be used. The aim is to 'streamline' and 'simplify' customs formalities and ensure the uniform application and implementation of the related provisions.

Furthermore, if necessary, the Commission will amend the customs regulatory framework and asks EU Members States to '*assess, by the end of 2020, the need to develop electronic systems, also using EU space technologies, for the management of customs related activities by military forces and customs authorities*'.

Moreover, the value added tax rules are also important for facilitating military mobility. By the end of 2018, the Commission will therefore assess options '*to reduce the administrative burden*' and examine '*the feasibility of aligning the value added tax treatment of defence efforts undertaken within the EU framework and the NATO umbrella*'.

As regards cross-border-movement permission, the Communication states that it should be noted that the diplomatic clearances in force reduce the administrative burden and the time needed to allow military mobility. The Commission stresses that the existing Diplomatic Clearance Technical Arrangement has proved its value '*in a specific part of air transport*', but also has clear restrictions, such as exclusion of airspace regions, aerodromes or refusal of certain missions, as individually imposed by the signatories.

An arrangement on cross-border-movement permission focusing on surface movement would be an opportunity to enhance military mobility for road, rail and inland waterways.

With regard to air movements, it is important to promote a common understanding of key principles, share best practices and monitor their practical implementation in order to achieve timely and accurate reporting at European level and make facilities and services available, thus contributing to ensuring compliance with the requirements for safety, regularity and efficiency of the global aviation system and the requirements for military

air operations.

The Commission identifies the following key actions: preparing a Category A project, by summer 2018, on cross-border-movement permission to support the EU Member States in developing arrangements on cross-border permissions. Through the Movement and Transport Project Team, the European Defence Agency will also provide a platform for the exchange of views between the EU Member States and the European External Action Service / EU Military Staff and NATO, on lead times for surface movement.

The Member States are asked to map the landscape of national regulations for the granting of permission for the movement of non-national military assets, contribute to defining operational requirements for the movement of assets in the context of the military requirements, identify national regulatory restrictions and their underlying political reasoning, develop solutions for diplomatic clearances to be granted with the minimum necessary national caveats and determine the need to adapt national regulations where an improvement in military mobility can be achieved. The Commission also suggests establishing specific arrangements that harmonise procedures and allow pre-authorisation of cross-border movement and transportation where pre-authorisation is necessary.

The ad hoc working group's roadmap includes further clarification of the possible impact of the EU Status Of Forces Agreement on military mobility, once it is in force. Furthermore, the improvement of military mobility in the EU needs to take account of threats of a hybrid nature, and consideration should therefore be given to the military mobility dimension when taking the relevant action under the Joint Framework on Countering Hybrid Threats.<sup>3</sup> These are issues that the European Defence Agency will analyse in order to identify possible additional lines of action.

The key actions currently ongoing at EU level include implementing the Joint Framework on Countering Hybrid Threats, with a focus on the military mobility dimension, especially as regards intelligence analysis capacity, decision-making in the event of threats and the resilience of critical infrastructure. Lastly, EU Member States are asked to consider the EU Status Of Forces Agreement and its implementation in relation to military mobility, once it enters into force.

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<sup>3</sup> <http://eur-lex.europa.eu/legal-content/PT/TXT/?uri=CELEX:52016JC0018>.

According to the Communication, the action plan does not have any impact on the EU budget. It provides for possible additional funding for dual-use infrastructure projects, which will be taken into account in the Commission's upcoming proposal for the multiannual financial framework.

### **PART III – CONCLUSIONS**

In the context of the scrutiny process provided for under Law No 43/2006 of 25 August 2006, as amended by Law No 21/2012 of 17 May 2012, the National Defence Committee considers that this report should be forwarded to the European Affairs Committee for the appropriate purposes.

Palácio de São Bento, 11 July 2018

**Rapporteur**  
***[signed]***  
**(José Miguel Medeiros)**

**Chair of the Committee**  
***[signed]***  
**(Marco António Costa)**



