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LEGAL ASPECTS OF DEVELOPMENT OF THE SECURITY CONCEPT OF THE EUROPEAN UNION

The evolution of European security from idea to system

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Abstract: *The patience and perseverance of the countries of the European Union on the path of their own and world security is reflected in the adoption of documents, through decades of creation.*

The entire system of the project called the European Union was accompanied by the situations of the creation of such a system, its changes, uneven speed of organization and uneven speed of creating elements of the Union, as well as the impact from outside and inside on the Union itself.

The European Union has developed at the level of member states, at the level of their mutual relations and at the level of supranationality. This development has become more and more complicated over time.

Today, there is a minimal possibility that the member states of the European Union would endanger security through conflicts or wars, that they would not worry about the basic goals of the Union in the first place, and especially the goals of the Common Foreign and Security Policy. However, there is a limitation to this policy contained in the capacity constraints, especially at the international level.

Regardless of that, the European Union is continuously striving to become a serious participant, which means strengthening the security identity, and especially the political and military components of the EU.

This paper analyzes the development of the creation of European security from the middle of the last century and in the first decade of this century. It points to changes in the creation and development of European security and defense policy.

Key words: *European Union, European security and defence policy*

INTRODUCTION:

The entire system-project, the European Union, went through the phases of the project, which were accompanied by different situations, different changes, uneven speed of creating an organization and uneven speed of creating elements of the Union, due to external and internal influences on the Union itself.

The European Union has developed at the level of member states, at the level of their mutual relations and at the level of supranationality. This development has become more and more complicated over time.

The national levels consisted of the basic national interests of the member states, which, with the development of the European Union, expressed a desire for influence beyond their borders. This fact produced external influences, especially expressed in the crises on European soil. Due to that, there was a constant need to harmonize diversity, especially in the security framework.

The European Union, as a new international entity "sui generis", did not imply the abolition of the nation state for the sake of a supranational structure, but its transformation and modernization in the conditions of integration and globalization.¹

Equalizing these differences made this path complicated. History shows that various countries managed to unite themselves despite different national interests and different political systems or changes in these systems. Countries that did not have knowledge of the processes or finding compromises entered the European Union. Due to this, the enlargement of the European Union required stronger influences towards the countries that want to join the Union, so those countries had to take on more and more extensive material for integration. At the same time, there were conflicts between the views of those who advocated their own foreign and security policy, compared to those who advocated full cooperation with countries outside the Continent.

On the one hand, the beginning of the development of the security structures of the European Union was oriented towards nation states, and on the other hand, the events of the Cold War created a political compulsion to establish a common policy in terms of defense and security. There is a constant presence of a third party, the pressure of the USA for Europe to contribute to the common transatlantic defense, in which integrated and controlled armament would be realized.

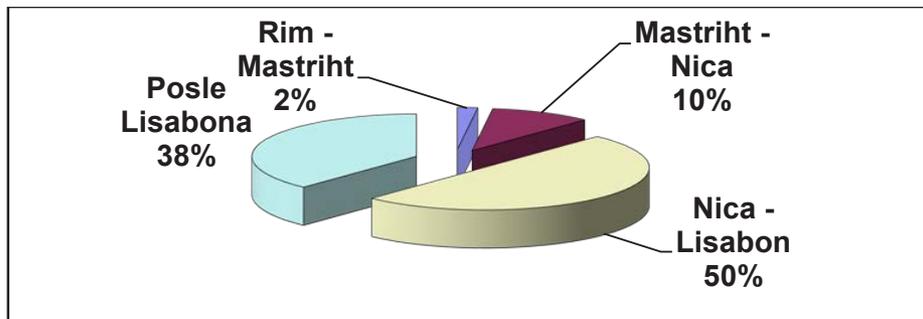
Today, the Common Foreign and Security Policy aims to protect the common values, fundamental interests and independence of the European Union; strengthening the security of the Union and its members in all its forms; peacekeeping and strengthening international security; promotion of international cooperation, as well as development and strengthening of democracy and the rule of law, respect for human rights and fundamental freedoms.²

Chronological analysis of security documents in significant periods of development of the European Union provides data on past, present and future phenomena. This analysis of the documents is crucial for European security. If we summarize the results of the research of the documents, we get the order that refers to the six time periods, characteristic for the development of the European Union and its security.

1 Lopandić, D., *Reforma Evropske unije, Zapadni Balkan i Srbija, Zakasnela integracija, ad/regionalizacija/reforma_eu_zapadnibalkan_srbija* Dusko Lopandic.pdf,14.07.2015.

2 Helcl, J., *Evropska politika bezbednosti i odbrane u funkciji jačanja Evropske unije, Vojno delo*, br.4.2009. str. 7-42.

EU documents in the field of security and protection



Izvor: Autor

The period up to 1951 marks the beginning of the integration of European countries.

That period has the legacy of World War II which destroyed Europe and led to its economic ruin. However, the ideas of unification did not disappear, but thinking about alliances and thoughts about a common policy were prevented by the systems in the countries from the east and west of Europe.

For most of the period after World War II, Europe's security was marked by cooperation with NATO, as the central defense institution.

Due to joint defense and mutual cooperation on economic, social and cultural issues, the Western European Union was founded in 1948. At the same time, US assistance in the field of security was one of the bases for further development of Europe.

Although the essence of the adopted documents of this period was in economic motives, they also served as a basis for political and military power. The Council of Europe became the institution for monitoring the development of the then six countries. During the Cold War, the Council of Europe played a significant role in overcoming tensions in East-West political relations.

In order to achieve stronger stability in Western Europe, its association was accompanied by the creation of the North Atlantic Treaty Organization, which to that end included the Federal Republic of Germany in 1955. The member states undertook to resolve disputes by peaceful means in accordance with the UN Charter. but if there is a danger of the use of illicit force against the States Parties, the use of other means of defense is permitted.

The Schuman Declaration proposed the establishment of the European Coal and Steel Community. The declaration contained the idea of placing the production of coal and steel of France and Germany under the administration of the High Authority, and outside national control. The declaration proclaims that Europe should be built on a federal basis. It provided a control mechanism for the development of modern industry, especially the military industry.

At the same time, there are aspirations for a greater degree of integration in the economic sphere. In addition to the reasons of a practical nature, there is also the elimination of historical antagonisms between individual states.

Military-strategic agreements in Europe followed the ideas and initial realizations of economic association. Great Britain and France formed the core of the Western European Union. The ideological predecessor of the European Defense Community is the plan for the establishment of the European Army, which was presented by Winston Churchill before the Assembly of the Council of Europe in August 1950. At the base, there was a solution to the issue of Germany and its rearmament. Plevén made a plan for the unification of Western Europe on the military field. The functioning of the Western European Union was conceived on the principle of military alliances. Two years later, the European Defense Community was established.

The research of the documents of the following time period, from 1951 to 1958, brings documents that provide the legal and economic sphere of integration. This document enabled the creation of the Community, which had the purpose of preserving peace.

The security concerns of European citizens about the rapid recovery of the German economy produced the idea of controlling the coal and steel industry, which initiated negotiations on the establishment of the European Coal and Steel Community. This is the content of the Schuman Declaration, which was the basis for the Treaty of Paris in 1951. The following year, this Treaty entered into force and united six European countries.³

Documents from this period indicate the planned formation of the European Defense Community, which was supposed to represent integration at the political security level and the creation of European armed forces, in Plevén's plan. This part of the integration failed, due to the disagreement of the French parliament. The legacy in the form of the Western European Union was suppressed by NATO and its takeover of the defense of Western Europe. At the same time, the creation of a European political community was planned. The idea failed, even during the negotiations. The rejection of the European Defense Community and the failure of the European Political Community placed the focus of integration processes, again and again, on the economic level.

Of special importance is the Treaty of Rome from 1957, the establishment of the European Economic Community, which significantly expanded the previous cooperation in the field of coal and steel.

The creation of EURATOM was motivated by the need to develop the Western European nuclear industry, again and again in terms of security, in 1957.

Documents from 1958 proved the further integration of the European Union. In addition, this time period is marked by the crisis of the Community, caused by the oil crisis. The element outside Europe has also slowed down the creation of the majority of common policies, as well as its security policies.

Attempts are again on the scene, this time by France, to limit the armament of Germany, in the early 1960s. Fouché predicted the political union of states and cooperation in the sphere of foreign policy, defense, science and culture, but with the preservation of all

3 European Union law, EUR-LEX, <http://eur-lex.europa.eu/JOIndex.do?ihmlang=en> , 16.07.2015.

the prerogatives of state sovereignty and on the basis of unanimous decision-making in the Council.

These plans were the basis for a general policy framework for cooperation between member states. They also envisaged a common defense policy. There were two plans in 1961 and 1963 that were prevented by different views on how to achieve integration.

The 1970s were a good basis for talks on creating common security at the level of the continent and beyond. However, the truth was that such cooperation could not survive without a security-political dimension.

Nevertheless, in 1973, within the framework of European political cooperation, the member states actively participated in the organization of the Conference on Security and Cooperation in Europe. The result of this cooperation was the basis for growing into the Organization for Security and Cooperation in Europe.

In the mid-1980s, a single European act brought the definition of European security challenges and a European security identity.

The significance that European political cooperation had in the development of the security system and the identity of the European Union is precisely in the fact that it led to the creation of the Common Foreign and Security Policy.

The Paris Charter for a New Europe was adopted by a meeting of representatives of the states or governments of the member states at the Conference on European Security Cooperation (CSCE).

This is a time of fulfillment of the hopes and expectations that our peoples have nurtured for decades: a firm commitment to a democracy based on human rights and freedoms⁴; prosperity through economic freedom and social justice and equal security for all our countries.⁵

The beginning of the crisis in the Balkans opens new security problems. Negotiations at the 1991 Peace Conference on Yugoslavia on a peaceful solution to the crisis did not yield results.

The SFRY disintegrated, and the borders between the former federal units were taken as the state borders of the newly formed countries, which cannot be changed by force. Michael Emerson of the Center for European Policy says "Badinter's report served as a kind of relief, both legal and diplomatic, for the EU to recognize the independence of the states that emerged from the break-up of the former Yugoslavia." The report is largely based on already established international legal principles, in the first place at the Montevideo Convention of 1933, which laid down the principles for defining states."⁶

Documents from the beginning of the time period since 1992, indicate the end of the adoption of the Founding Treaties of the European Union, by which the Union became an entity.

5 Pariska povelja za novu Evropu, Konferencija za evropsku bezbednost i saradnju, Pariz, 1990. 1.

6 Emerson, M., Dvestest godina od zvaničnog raspada Jugoslavije, <http://www.dw.com/bs/dvadeset-godina-od-zvani%C4%8Dnog-raspada-jugoslavije/a-15565054>, 12.07.2017.

The Western European Union was reactivated, due to the lack of a sufficient defense identity of Europe. Its institutional reform has been carried out and the ground has been prepared for the creation of the European Union's defense pillar.

Since 1974, the members of the European Community have been trying to reach a mutual agreement at the interstate level (European political cooperation), which was given a formal basis in the unified European dossier from 1986.⁷

A real revolution in the organization and development of the former European Communities occurred when there was a historical change in the European order: in 1989, the Berlin Wall was torn down, and with it the ideological and military division of Europe into the socialist east and capitalist west. Germany was united in 1990, the USSR and Czechoslovakia peacefully disintegrated, and the Yugoslav federation disappeared in 1991-1992. In fire and blood. At the same time, the Heads of State and Government of the European Communities are making far-reaching decisions to substantially change the Communities.⁸

In the 1991 Maastricht Treaty, members formulated for the first time the goal of a "common foreign policy".

On the other hand, the activities of the European Union with this Treaty are aimed at taking over the functions of the Western European Union. This marks a turning point in the development of the Common Foreign and Security Policy, as all members of the European Union have agreed that it is necessary for the Union to develop its own military and defense capabilities. European rapid intervention forces have been formed and new, supporting institutional structures have been created. The Eurocorps was formed. With this formation, the European Union was able to lead missions, independently or with the help of NATO capacities.

The 1992/1993 EU Treaty also formulated the first program of cooperation in the field of justice and home affairs of the member states, the legal framework for the establishment of a European security and defense policy.

The historical fact of this period is that the former Yugoslavia and the crisis in the Balkans developed rapidly, much faster than the processes of European security integration. Lack of security in the Balkans, and thus on European soil, is superimposed on the adoption and beginning of the construction of the Common Foreign and Security Policy and the definition of the idea of a European defense identity.

Almost simultaneously, the Partnership for Peace, a NATO program, is aimed at establishing mutual military cooperation and regional stability. NATO has launched initiatives for cooperation, stability and security in Southeast Europe, and promoted the strengthening of cooperation, stability and security. The essence is in a series of regional programs and projects that contribute to the reforms of the defense and security sector. In addition to the above, common security challenges were singled out, as well as the possibilities of solving them through regional cooperation.

The regional aspirations of European countries, on the basis of the Charter on European Security in 1999, give birth to a series of security documents, which in their essence lead to the goal of a security environment in the region. The documents, which regulate the legal and security situation, primarily in the regional framework, are considered an important

7 Janjević, M., *Ustav Evrope*, Službeni glasnik Beograd, 2005.18-31.

8 Lopandić, D., 2008., o.c. str. 23.

element of pan-European security. Regionalization processes promote cooperation, stability and security.

Thus, the documents of this period expand European political cooperation with a clearly defined European defense identity, and harmonize the defense policies of the member states. The first reform of the European Community, which expands and harmonizes policies in the foreign policy and security sphere, also contributes to that.

Terrorism, organized crime and corruption, essentially the most complex threats, are becoming a priority of the European Union in relation to “soft” security. Integration processes and processes of cooperation in the field of police and judicial affairs, transfer parts of the security of the states to the European Union. The result of these activities is the loss of interstate borders, which opens a European criminal area.

In order to create prevention and control of the open criminal area, a single joint police was realized. The product of this common concept of internal security is Europol, which incorporates common positions, common actions and conventions.⁹

Europol has a form of vertical cooperation, which operates above the state level. The establishment of Eurojust is a logical continuation of competence, aimed at the same goal.

The legal basis of the Treaty of Amsterdam introduces a common foreign and security policy of the EU and gives the European Union responsibility for all issues related to its security, and the possibility of establishing a common defense policy. This 1999 Treaty enables the European Union, within the framework of the European security and defense policy, to launch humanitarian and rescue operations, peacekeeping operations, and to use military forces in crisis management, including peacekeeping operations. Also, the European Union is enabled to launch preventive operations.

The European Union insists on close cooperation between police and internal affairs bodies. It has been given broader responsibilities in the field of internal security. The then framework of the development of the European Union, there is more and more talk about collective security, which is based on eliminating the causes and creating forces, for all forms of endangerment.

Geopolitical changes at the end of the twentieth century burdened relations among the peoples of Europe, as a new security challenge. At the same time, the problems of international terrorism and organized crime became relevant. This has led to the need to develop a European security and defense identity, and to develop defense capabilities.

The summit in Cologne marked a turning point in the development of the Common Foreign and Security Policy, because all members agreed that it was necessary for the European Union to develop its own military and defense capacities. The summit also included the formation of a special Political-Military Committee, the Military Committee and the Military Staff of the European Union.

As corruption is the greatest threat to the rule of law, democracy and human rights, and as it hinders economic development and jeopardizes the functioning of the market economy, the Council of Europe adopted the 1999 Convention on Corruption.

At the summit held in Santa Maria da Feira in 2000, an agreement was reached on strengthening the civilian component of crisis management and on creating a catalog of military forces. The European Union includes a foreign and security policy of defense and internal security. It defined the need to develop a European defense identity.

9 “Odluka Saveta Evropske unije” br. 2002/187/JHA, Eurojust

The chronological order of the adoption of security documents indicates that the European Union and NATO decided in 2000 to develop a European defense and security policy. The Declaration on the European Security and Defense Policy - NATO-EU resulted from this agreement. The European Union takes responsibility for most of the functions previously performed by the Western European Union. A strategic partnership is being developed. NATO's European Pillar supports the European Security Identity, through joint, joint operational groups, making NATO resources available to the European Union. The strengthening of the European pillar of the North Atlantic Alliance has shown the readiness to engage the European Community, outside its territory. Almost all European countries at this time were members of security organizations, the OSCE and NATO.

The Organized Crime Prevention and Control Strategy brings together in one place various actions for the prevention and suppression of organized crime, together with details on implementation, order of priorities and competent authorities. The strategy also determines the coordination of member states, in order to prevent the occurrence of organized crime and to combat it.¹⁰

In Nice, these relations were redefined in 2000, and the institutional creation of a European security and defense policy was enabled.

The European Union extends its basic goals in the field of foreign and security policy to the countries in which it has an interest. Within the Union, concepts are being created, which should take responsibility for the security of the Union.

With its participation, the European Union participated in the end of the conflict in Macedonia.

The coming processes of globalization give a new meaning to the strengthening of the security of the European Union, so the European security and defense identity continues to develop within NATO, which remains the main factor of collective security in Europe.

By pursuing a unified criminal policy, the European Union is spreading the values of protection against corruption. Thus, the European Union focused on "soft" security and strengthening internal security of the states of the regions. Within the OSCE, the European Union implements and harmonizes its common foreign policy, post-conflict recovery and the development of democracy.

The analysis of documents for the period after 2001 indicates the realization of international efforts for arms control and reduction, as well as the realization of international efforts against corruption, which were determined by the United Nations in its Conventions.

European Union member states are also active on a global level, on issues of terrorism. They set out the roles of the partnership with NATO in the fight and management of the consequences of terrorism. This engagement of the European Union and NATO is marked by a plan against terrorism and strengthened measures on the same problem. This did not matter, but efforts were made to strengthen the defense of information systems and improve readiness to deal with the consequences of possible terrorist attacks. In December 2002, an agreement was reached in Berlin between the two organizations, on the basis of which NATO material and human resources are made available to the European Union during crisis management. This is reflected in the Berlin plus arrangement.

10 F.Edjus et al, „Rečnik evropske bezbednosti“, Centar za civilno-vojne odnose, Beograd, 2000, 84.

By achieving the main goals of the European Security and Defense Policy, the European Union has completed the first cycle of shaping this policy. Further realization was achieved by launching the first security operations and missions in the world.

The European Union adopted two Strategies in 2003, in which it defined security threats, strategic goals, the way of functioning and cooperation with partners, and marked specific procedures and actions in the field of prevention of proliferation, disarmament and control of weapons of mass destruction.

Such European security and defense is being operationalized by the launch of the first police mission in 2003 in BiH.

The three most important countries of the European Union have become the leaders in proposing the concept of battle groups (France, Great Britain and Germany). The characteristics of these groups are high technological equipment, multinationality and readiness for quick engagement. Their quality is in the mutual harmonization of the armed forces of the member states, quick engagement in crisis situations and self-sustainability.¹¹

The civilian main goals included the further development of the European Security and Defense Policy. In order to avoid duplication, the 2003 Framework Objective strengthened cooperation between the Union and the Alliance.

The authenticity of this policy was provided by the new main goals and their further realization, in 2003. The main goals were set; European Rapid Reaction Force, the 1992 Petersburg Tasks, which include, humanitarian tasks, rescue tasks, peacekeeping tasks, combat unit tasks in crisis management, including peacekeeping.¹²

At its meeting in Brussels in 2004, the European Council adopted the Headline Goal by 2010. It complements the Helsinki Headline Goal. The novelty is that, in addition to the missions envisaged by the St. Petersburg tasks, these troops would also participate in new types of missions, which are envisaged by the European Security Strategy. This includes conducting disarmament operations, providing support to third countries in the fight against terrorism and reforming the security sector.¹³

In the same year, a document on the European Neighborhood Policy was adopted, which set it as a strategic priority and one of the basic interests of its security. This agreement opens a greater role for the European Union in international politics. It is stated in order to protect and maintain the common values and basic interests of the Union, then in strengthening security, on a European and international scale. In this period, in parallel with the above, the Union is trying to prevent blockages in decision-making in foreign and security policy by constructive restraint.¹⁴

At the same time, the Balkans in this period are characterized by numerous security problems. Security threats in the newly formed Balkan countries have had a reciprocal impact on European security. The result of the support of these countries, by the European

11 Gnesotto, N., *EU Security and Defence Policy – The first five years*, Institute for Security Eu, 2004. 48.i 278.

12 Na sastanku Saveta za opšte poslove i spoljne odnose u Briselu, 17. maja 2004. godine, usvojeni su Glavni ciljevi za 2010. godinu; u, *Chaillot Papers 75*, EU Security and defence, Core Documents 2004, Gnesotto Nicole (compiled by), EU Institute for Security Studies, Paris, February 2005, 64-65.

13 Orlić, D., o.c. I

14 Edjus, F., et al, o.c.

Union, is that they, starting from the end of the armed conflicts, go through the region, stabilizing their economic, security and democratic opportunities.

In parallel with the above, the beginning of the European Union's operations in the Western Balkans is taking place. These security operations have contributed to the advancement of the Union and its defense and security policy. Soft security is becoming and remains a priority of the European Union. Therefore, the European Union has focused the intensity of its activities on creating preventive measures in the field of crime and coordinating the actions of national authorities. It also conceived measures to investigate cross-border crime.

In relation to this time, it can be summed up that the European Union brings the first political frameworks of cooperation between the European Union and the newly formed states of the Western Balkans. The European Union is operationalizing European security and defense. After the first mission, others followed. Almost simultaneously, the European Union is identifying new global challenges as well as concepts for overcoming them. Key security threats to the European Union have also been identified.

Following its strategies, the European Union has strengthened its own security policy, but also its responsibility on the entire continent. The Early Warning Department monitors, analyzes and reports on developments under the Common Foreign and Security Policy.

Through the conducted research of the documents we can conclude that the European Union and the United States fully supported the normalization between the newly formed states and entities. From the moment of the end of the armed conflicts in the sense of stopping and later ensuring security, the goal of these countries to achieve full security of the society and citizens of the Balkans extends.

In addition, the Union has proven that it can actively engage in security issues anywhere in the world. On the other hand, the Union's involvement in its security policy has obstacles, which consist of underdeveloped military and civilian capabilities, which makes it dependent on the Alliance.

In order to ensure its own strategic security, the European Union during this period influenced political instabilities, their resolution, resolution of unresolved issues among the countries of the Western Balkans. On the part of the European Union, these issues must be resolved in order to protect the security of the Union itself. Accordingly, the European Union is using its soft power in this period.

The testimony of documents adopted after 2007 indicates very concrete changes. The Lisbon Treaty attaches political and judicial co-operation in criminal matters to the first pillar. Within the common foreign and security policy, unanimity becomes the rule. Thus, one can speak of even the complete merging of the pillars into a single European whole. On the basis of the Lisbon Treaty, the European Union acquired an international legal personality, which the European Community previously had. The European Community disappears with the Lisbon Treaty as a legal entity, but also in general as a concept in European integration.

Although in this period the European Union brings half the number of security documents, compared to the previous period, the analysis shows that it is strengthening its position in the global sphere. At the beginning of the period from 2007, the European Union launched the largest civilian mission, to establish the rule of law in Kosovo and Metohija.

The research of documents proves that the maximum adoption of documents by the members of the European Union was accompanied by the adoption of strategic documents

from the countries that are signatories to the Stabilization and Association Process. Guided by European Union standards, these countries regulate, among others, the areas of security and protection.

The characteristic of this period, in terms of the adoption of documents, is that in the first place are still strategic documents in the field of security.

All of the above has created a greater connection between the Union and increased its identity in relations with the outside world. Member States may request defense assistance, and the decision on the type of assistance is left to the members.

On the other hand, the European Union has launched many operations around the world and continued its activities in the Western Balkans.

CONCLUSION:

The described path of creating the security of the European Union was not simple, but it led to the adoption of a number of common values, norms, rules and principles, which today represent its foundation. The policy of internal security is especially important, which is also the first strategic security interest of the European Union. The second strategic goal of the European Union is aimed at its own security and preventing the spillover of instability from the borders of other European countries.

Given that the Common Foreign and Security Policy takes separate paths, towards foreign and security policy, the European Union has mobilized forces to preserve these goals.

On the other hand, there is systematic cooperation in the European Union for maintaining peace, strengthening international security, advancing international cooperation, as well as developing and strengthening democratic states governed by the rule of law.

The new dimension is that Member States have an obligation to refrain from all actions that threaten the Union and are obliged to maintain its effectiveness on the international stage. In relation to the new dimension, the European Union has the characteristics of a security organization.

Insufficient coherence of actions at the political and diplomatic level is present due to the fact that the Common Foreign and Security Policy is an intergovernmental mechanism, with a small number of obligations of member states.

Recent events indicate that the European Commission has presented the European Security Program for the future, 2015-2020. The program supports co-operation between member states in eliminating security threats, and strengthens joint efforts in the fight against terrorism, organized and cybercrime. The program identifies specific tools and measures that will be used in joint work to achieve security and more efficiently address these current issues.

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