
THE AFRICAN UNION'S NEW COMMON DEFENCE AND SECURITY POLICY AS A MECHANISM FACILITATING DEVELOPMENT OF THE CONTINENT

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PRELIMINARY THOUGHTS

Having perceived the frameworks of the forming new world order, Libya's foreign affairs have significantly changed in the recent fifteen years (Sturman, 2003: 109). While earlier the goal of Colonel Qadhafi—who was considered as the 'daredevil' of the Arabic world—similarly to lots of Arabic leaders¹ was to create a uniform Arabic state², then as from the second half of the 90's he started to make democratic sounds, and tried to have his system accepted by the 'West', and first of all by its controlling power, the United States of America.³ Author of the 'third Universal Theory'⁴ conceived the role of peace maker for his country. (Martinez, 2000) One year ago the millennium, he recommended on the extraordinary session of presidents and prime ministers of the Organization of African Unity held in Sirte, Libya that set up an African Union.⁵ It is a fact that prestige of Colonel Qadhafi and his country is quite great enough among the African leaders, as well as the 'home ground' also supported him, thus the idea got the nod from the session of presidents and prime ministers of the Organization of African Unity. One year later, the Assembly held an ordinary session in Lome where the Deed of Foundation of the African Union succeeded the Organization of African Unity was accepted, and it came into force on May 26, 2001, after thirty days from the ratification by two third of the member states of the Organization of African Unity. The number one leaders of the African Union accounted for replacement of the Organization of African Unity with a new mechanism so that the former one completed its historical mission, in other words it was successful in liberating and

¹ E.g.: Nasser, Saddam Hussein , etc.

² In connection with that see for example Principles of Libya's Constitution in its Section 1.

³ Qadhafi's attitude to 'the case of Bulgarian physican and nurses' seems to be contrary to a certain degree.

⁴ See Qadhafi's 'green Book' for detailed expound of the theory.

⁵ Qadhafi originally recommended the African leaders to set up the 'United States of Africa' with an own army, currency, and strong leadership, but they thought the idea to be too unrealistic. (Baimu-Sturman, 2003,p. 38)

decolonising the continent, as well as developing a common identity.⁶ Experts add that the Organization of African Unity was not promising when it was established, since it was not more than a 'simple' inter-governmental organisation. This opinion may be proved also by the fact that not much later after establishment of the African Union certain African states commenced to think about regional level collaboration instead of continental co-operation, and the first regional African organisations were established⁷. Preamble of the Deed of Foundation of the African Union in addition also accounts for the necessity of changes due to Africa's best interest. Accordingly, the many-sided changes occurred mainly in the field of politics, economy and welfare in the recent years resulted in challenge for the African continent, which had to outline their own answers.⁸ Thus the Organization of African Unity established the African Economic Community in 1991⁹, but the new organisation can develop very slowly, in small steps due to resistance of the regional economic communities.¹⁰ To also facilitate this, presidents and prime ministers replaced the Organization of African Unity with a new umbrella organisation, the African Union, thought to be more viable.¹¹

The establishment of a more peaceful and stronger Africa was more and more important for also the rest of the world. The United States elaborated a new security policy after the terrorist attacks of 2001¹², which says that the security of the United States basically depends on the security and development level of the states of the third world, since the weak countries are suitable shelters for terrorist groups. (Cilliers, 2003: 111; Keegan, 2004: 150-151) It is also indisputable that Africa's mineral oil and natural gas resources resulted in quicken interest of the American foreign affairs.

⁶ See for example Preamble of the Deed of Foundation of the African Union.

⁷ First of Economic Community of West African States (ECOWAS) was established in 1975, followed by the establishment of the Economic Community of Central African States (ECCAS) in 1983, and then the establishment of the Union of Maghreb-Arabic (UMA) in 1989. Afterwards the South African Development Community (SADAC) was established in 1992, Common Market for Eastern and Southern Africa (COMESA) was established in 1993, the Inter-governmental Authority on Development (IGAD) established in 1996 represents the interests of eastern African states, and finally the Community of Sahel and Saharan States (CENSAD) was set up in 1998.

⁸ It was emphasised by several African document of great importance, for example, the Statement on 'Basic Changes in the World and African welfare- economic conditions' of the Assembly of Organization of African Unity held in 1999 (AHG/Decl.1 (XXVI)), or the Agreement as Established the African Economic Community in 1991).

⁹ The Agreement established the African Economic Community came into force in 1994, and its aim is to facilitate the continent's economic integration.

¹⁰ See also related resolutions and positions of the Organization of African Unity and the African Union.

¹¹ See the Preamble of the Deed of Foundation.

¹² The so- called 'Bush- doctrine', which wants to overcome international terrorism by a preventive war, US President George W. Bush summarized in the following way: 'Each state should make a decision: with us, ore with the terrorists.' Excerpt from the address of George W. Bush to the nation in the joint session of the Congress. (September 20, 2001.)

(Berman, 2004: 133) In addition, in recent year, the European Union¹³ and some of its member states¹⁴ paid particular attention to African security policy processes.

AFRICAN UNION'S COMMON DEFENCE AND SECURITY POLICY

The demand to have a common defence and security policy arose among others from the recognition that the major obstacle of Africa's social and economic development is the permanent presence of conflicts featuring the continent as a whole and in most cases are quite serious.¹⁵ The African Union's Deed of Foundation mentions among its aims facilitating the continent's peace, security, and stability¹⁶, and among the principles necessity to establish common defence policy.¹⁷ Therefore the Assembly, which is to be considered the major organ of the African Union¹⁸, established the Council for Peace and Security by a record attached to the Deed of Foundation, as the organ of the African Union.¹⁹ They wanted to set forth the changed also in the Deed of Foundation, therefore in Maputo in 2003 the Assembly amended certain provisions of the Deed of Foundation, but the changes did not come into force.²⁰ Since pursuant to the Deed of Foundation the finition of the African Union's common policy is the duty of the Assembly, the African presidents and prime ministers, upon Libya's initiation again, approved a solemn Declaration on Common African Defence and Security Policy in 2004. The African presidents and prime ministers noted that the term of defence and security refers to traditional, state-focused, and less traditional, non-military concept. Besides they stated that defence and security of any African state is an integrated part of the defence and security of other African countries. According to the Declaration, common security may be jeopardised from outside and inside. The continent's internal security is jeopardised by conflicts and tensions among states, unstable post-conflict situations, serious humanitarian situations, as well as other circumstance. To avoid misunderstandings, the Declaration accurately determines which actions belong to the scope of internal and external threat.²¹ The African Union's Common Defence

¹³ The European Council approved on 12 December 2003 the 'Secure Europe in a Better World: European Security Strategy' document. It pays attention to the security of Africa as well.

¹⁴ Besides the United Kingdom traditionally having serious role in connection with African stability and security, Germany shows the highest tolerance toward particular African issues. (Klingebl, 2005: 37- 39)

¹⁵ See for example the Preamble of the Deed of Foundation.

¹⁶ Paragraph f of Section 3 of the African Union's Deed of Foundations.

¹⁷ Paragraph d of Section 4 of the Deed of Foundation.

¹⁸ Subsection (2) of Section 6 of the Deed of Foundation.

¹⁹ The Assembly approved the Record on the Council of Peace and Security in Durban in 2002. The Record came into force on December 26, 2003.

²⁰ Still as of 1 November 2005 five member states should ratify the Record containing the amendment.

²¹ See Sections 7-9 of the Declaration.

and Security Policy covers supporting the culture of peace and of collective security, reducing light weapons, eliminating antipersonnel mines, nuclear and other weapons of mass destruction, including chemical weapons, making post-conflict and enforcing peace, recovery and rehabilitation resettling asylum seekers and internally displaced persons and facilitating their reintegration, eliminating children's army²², prevention against AIDS, TBC, malaria and other infectious diseases, humanitarian and environmental issues, as well as fight against terrorism.²³ To achieve the above, member states of the African Union together make arrangements against any threat and—as in several military coalitions²⁴—any attack against any of the member states is considered as an attack against all member states.²⁵ The Common Defence and Security Policy orders to develop gradually an 'African Military Doctrine', harmonise national defence and security policies, set up and operate an African Standby Force, as well as elimination of the rivalry among the African states.²⁶

EXECUTION OF THE COMMON DEFENCE AND SECURITY POLICY

Execution of the Common Defence and Security Policy has three levels; continental, regional/subregional, and member state. The Assembly undertakes major responsibility of execution at the continental level, deals danger threatening Africa's collective security and defence. Since the Assembly holds sessions quite rarely²⁷, it was necessary to set up a permanent decision-making organ in the field of conflict prevention, management, and resolution. The Council for Peace and Security administers this function within the African Union.²⁸ The Council for Peace and Security in addition, has a collective security and early warning mechanism, and according to the intention of those established it, the Council will respond in time to African conflict and crisis situations.²⁹ When performing our duties, the African Union's Committee, the

²² As regards phenomenon of so-called children's army, see details in the study of Zsuzsanna Csapó (2004, 'Children in War').

²³ See Section 10 of the Declaration.

²⁴ For example NATO, SEATO, etc.

²⁵ See Paragraph c) of Section 2 of the African Union's Non-Aggression Common Defence Pact.

²⁶ See Section 13 of the Declaration.

²⁷ According to the Deed of Foundation, the Assembly holds an ordinary session at least once a year. (Subsection (3) of Section 6 of the Deed of Foundation) upon any the request of any member state and with approval of two third of the member states, the Assembly maybe convened for extraordinary session as well (Subsection (3) of Section 6 of the Deed of Foundation) Subsequent to coming into force of the Record amending the Deed of Foundation, Chairman of the Assembly may initiate – after consultation with the member states – to convene an extraordinary session. (Subsection (4) of Section 6 of the amended Deed of Foundation)

²⁸ (Subsection (1) of Section 20/A of the amended Deed of Foundation and first phrase of the Subsection (1) of section 2 of the Record on Establishment of the African Union's Council for Peace and Security.

²⁹ Last phrase of Subsection (1) of section 2 of the Record on Establishment of the African Union's Council for Peace and Security.

Committee of Wise Men, the Continental Early Warning System, the African Standby Force, and a special financial source, the Peace, as the five platforms of the Council for Peace and Security will help.³⁰ Its scope of activity involves particularly facilitating peace, security, and stability in Africa, early warning and preventive diplomacy, peace keeping, peace-making operations and interventions, peace building and post-conflict, humanitarian campaigns and crisis management.³¹ In these fields the Council for Peace and Security has a scope of authority detailed in the record, and during execution of it the states are obliged to collaborate with it completely³². Scopes of authority of the Council for Peace and Security are the following:

- Early warning and preventing disputes, conflicts, as well as actions that may result in genocide, or criminal acts against humanity;
- Performing peace-making and building duties in order to find a solution for conflicts arising;
- Granting authorisations for setting up peace keeping missions;
- Outlining rules containing general obligations of peace-keeping missions, determining the essential features of the mission, and revising those at fixed intervals;
- Making recommendation in case of serious circumstance—particularly war crimes, genocide, and criminal acts against humanity—to the Assembly for an intervention against the relevant state under the auspices of the African Union;
- Approval of the from of such interventions after the Assembly's decision;
- Enforcing the sanctions against member states where there is an anti-constitutional change in the system of government, in accordance with the provision of the Lome Declaration;³³
- Executing the Union's common defence policy;
- Ensuring the execution of the Organization of African Unity's Anti-terrorism Convention³⁴ as well as other important international, continental, regional convents or document³⁵, harmonising and co-ordinating continental and regional efforts against terrorism;

³⁰ Subsection (2) of section 2 of the Record on Establishment of the African Union's Council for Peace and Security.

³¹ Section 6 of the Record on Establishment of the African Union's Council for Peace and Security.

³² Section 7 of the Record on Establishment of the African Union's Council for Peace and Security.

³³ 'Declaration on the Organization African Unity's response in case of any anti- constitutional change in the government system.' AHG/Decl. 5 (XXXVI).

³⁴ Organization of African Unity's Algir Convent (1999) on preventing terrorism and struggle against it.

³⁵ Particularly the convents concluded under the auspices of the UN and African Union's so- called Algir Action Plan (2002). Its aim is to defeat African terrorism.

- Supporting the collaboration between the Union and regional mechanism in order to maintain African peace, security and stability;
- Supporting and developing the partnership between the African Union and other international organisations, particularly the UN and its specialised agencies in the interest of peace and security;
- Developing those policies and activities that ensure harmonised execution of each external initiative affecting the African continent in the field of peace and security in compliance with the Union's goals and priorities;
- According to the obligation to prevent conflict monitoring the development of the member states, practicing democratic procedures in the interest of good governance, constitutionality, protecting human rights and fundamental freedoms, inviolability of human life, and the respect for international law;
- Facilitating and encouraging the execution of convents concerning disarmament and arms control, concluded under the auspice of OAU/AU, the UN, and other international organisations;
- Investigating and, within the framework of its engagement taking appropriate measures in cases when aggression, including operations of mercenaries, threaten the national independence and sovereignty of any member state,
- Supporting and facilitating humanitarian campaigns in case of armed conflicts or serious natural disasters;
- Reporting about its activity and status of African peace and security—via the Chairman—to the Assembly on a regular basis;
- Making decisions in other issues that may impact up on maintaining the continent's peace, security and stability and exercising each scope of activity delegated by the Assembly.

Constitution and Operation of the Council for Peace and Security

When the legislators set up the rules concerning the constitution of the Council for Peace and Security, they also took into account the UN Security Council. Similarly to the UN Security Council, the Council for Peace and Security also has fifteen members, of which ten for two years, and five—to ensure continuity—for three years are elected by the African Union's Executive Council.³⁶ When the members of the

³⁶ Subsection (5) of section I of the Record on Establishment of the African Union's Council for Peace and Security.

Council for Peace and Security are elected, the principle of equitable geographical representation and rotation should succeed in other worlds, all the five geographical regions of Africa³⁷ represent themselves in the Council, it seems to be inconsistent with the latter principle however that its members may be re-elected.³⁸ There is an important departure compared to the Security Council's procedure that none of the members of the Council for Peace and Security has so-called veto right. In addition, the Record stipulates several criteria for candidates.³⁹

The Council for the Peace and Security was organised to be able to operate on permanent basis.⁴⁰ Accordingly, each member of Council for Peace and Security permanently represent itself in the African Union's headquarters in Addis Abeba, which is the venue of the sessions of the Council for Peace and Security at the same time. The Council for Peace and Security holds its session at three levels; permanent representatives, ministers, as well as presidents and prime ministers⁴¹. Chairman ship of the Council rotates monthly in alphabetical order, and the duty of the state giving the chairman is—in addition to determine the agenda of the Council for Peace and Security⁴²—to manage its session. As a key rule, the Council holds closed session and it has a quorum, at least two-thirds of the members present.⁴³ Each member state has one vote, the resolution are approved by consensus, however, when it is impossible, then decision in procedural questions are decided by simple majority, and in any other case by two-thirds majority of the attending and voting members.⁴⁴

³⁷ The five regions set up by the Council of Minister of the Organization of African Unity in 1976 are the following: Northern Region, Western Region, Eastern Region, Central Region, and Southern Region CM/Res.464 (XXVI).

³⁸ Since this provision is favourable to so-called 'semi-permanent membership'.

³⁹ These mainly are connection with the principle of exercising democratic power, thus only such country may be the member of the Council for Peace and Security that a) undertakes to comply with the Union's principles, b) involved in maintaining and facilitating Africa's peace and security, skill in peace-keeping operations is further advantage, c) undertakes and is able to undertake responsibility accompanied to the membership, d)takes part in conflict management, making and building peace at both regional and continental conflict management, f) contributes to the Peace Fund and /or the Special Fund set up special aims, g) respects the constitutional government in compliance with the Lomé Declaration, as well as principles of human rights and constitutionality, h) has an appropriately trained and equipped representation in the Union and the UN to be able to undertake the burdens accompanied to the membership, i) undertake to fulfil payment obligation against the Union. (Paragraphs of Subsection (2) of Section 5 of the Deed of Foundation).

⁴⁰ Subsection (1) of Section 8 of the Record on Establishment of the African Union's Council for Peace and Security.

⁴¹ Subsection (2) of Section 8 of the Record on Establishment of the African Union's Council for Peace and Security.

⁴² Agenda items may be proposed by the chairman of the Committee or any member state. (Subsection (7) of Section 8 of the Record on Establishment of the African Union's Council for Peace and Security)

⁴³ Subsection (8)-(9) of Section 8 of the Record on Establishment of the African Union's Council for Peace and Security.

⁴⁴ Subsection (12)-(13) of Section 8 of the Record on Establishment of the African Union's Council for Peace and Security.

Organs and Bodies Supporting the Work of the Council for Peace and Security

The Committee of Wise Men

Decision-makers of the African Union mark the Committee of Wise Men for significant role in the field of conflict prevention. It actually operates as an advisory body to the Chairman of the Council for Peace and Security, and upon their request or on their initiative, by measures supports the effort of the Council for Peace and Security and the Chairman of the Council concerning conflict prevention, and takes up a position on issue in connection with maintaining and Facilitating Africa's peace, security and stability.⁴⁵ The Committee of Wise Men should regularly report on its work to the Council for Peace and Security, and via it Assembly.⁴⁶ The Committee of Wise Men has five members selected by the Chairman of the Committee⁴⁷, and appointed by the Assembly for three years. When the candidates are selected, only generally esteemed person may be taken into accounts, who have contributed significantly to the peace, security, and development of the continent. In addition, the principle of equal regional representation should de also taken into consideration.⁴⁸

Continental Early Warning System

As the Committee of Wise Men, also the Continental Early Warning System has or will have considerable part mainly in preventing conflicts.⁴⁹ The Continental Early Warning System consist two components; the so-called Progress Monitoring Centre as well as observing and monitoring units of the Regional Mechanisms, which are directly connected to the Progress Monitoring Centre via suitable communication channels.⁵⁰ It is the duty of the Progress Monitoring Centre and the units operating at regional level to collect and process data, and the units forward information and analyses to the Progress Monitoring Centre.⁵¹ The Continental Early Warning System

⁴⁵ Subsection (1) and (3) of Section 11 of the Record on Establishment of the African Union's Council for Peace and Security.

⁴⁶ Subsection (5) of Section 11 of the Record on Establishment of the African Union's Council for Peace and Security.

⁴⁷ Before selecting the candidates, the Chairman of the Committee is obliged to consult the member states. (Subsection (2) of Section 11 of the Record on Establishment of the African Union's Council for Peace and Security).

⁴⁸ Subsection (2) of Section 11 of the Record on Establishment of the African Union's Council for Peace and Security.

⁴⁹ Subsection (1) of Section 12 of the Record on Establishment of the African Union's Council for Peace and Security.

⁵⁰ Subsection (2) of Section 12 of the Record on Establishment of the African Union's Council for Peace and Security.

⁵¹ Subsection (2) of Section 12 of the Record on Establishment of the African Union's Council for Peace and Security.

should also design a so-called Early Warning Module, by its means developments may be analysed, and the best solution as far as possible may be recommended to prevent conflicts.⁵²

African Standby Force

Creation of the African Standby Force was the most spectacular element of paradigm shift to African security policy. It was obvious also for the African leaders that Common Defence and Security Policy is worth nothing without a common force. Although Colonel Qadhafi's recommendation originally related to creating an African army, other states of the continent found premature the recommendation.⁵³ However, it is true that the independent African Army, as an objective to be achieved, also appears in the African Union's new 'Non-Aggression and Common Defence Pact'⁵⁴. The Assembly created the Standby Force so that the Council for Peace and Security, and via it the African Union, could fully perform its functions in connection with making, keeping, and building peace.⁵⁵ The Standby Force is built up of multi-discipline contingent consisting of rapid reaction civil and military components that are set up from a part of the forces of the member states.⁵⁶ The African Standby Force takes part in observing, peace making, peace building, peace keeping, as well as humanitarian mission in regions affected by conflicts.⁵⁷ In a concrete situation, Chairman of the Committee appoints the mission's military commander and so-called Special Representative, who permanently informs the Chairman of the Committee about the operations.⁵⁸ In addition, the Record of the Council for Peace and Security also set up a Committee of General Staff, as a special advisory body to support the work of the Council for Peace and Security.⁵⁹

⁵² Subsection (4) of Section 12 of the Record on Establishment of the African Union's Council for Peace and Security.

⁵³ *ibid.*

⁵⁴ *ibid.*

⁵⁵ Subsection (1) of Section 13 of the Record on Establishment of the African Union's Council for Peace and Security.

⁵⁶ *ibid.*

⁵⁷ Subsection (3) of Section 13 of the Record on Establishment of the African Union's Council for Peace and Security.

⁵⁸ Subsection (6)-(7) of Section 13 of the Record on Establishment of the African Union's Council for Peace and Security.

⁵⁹ Subsection (8)-(12) of Section 13 of the Record on Establishment of the African Union's Council for Peace and Security.

Peace Fund

The purpose of the Peace Fund 'inherited' from the Organization of African Unity is to provide the financial budget for peace-making mission and other operations in connection with peace and security.⁶⁰ Their main source of the Fund is Union's budget, the African leaders rely on subsidies of the member states, and contributions of various players of the private sector.⁶¹ Source from outside of Africa may be placed in the Fund with the approval of the Committee only.⁶² There is no doubt that the latter provision may become the hotbed of corruption. Within the Peace Fund, also a Credit Fund was set up; authorized organs of the Council for Peace and Security.⁶³

Other Institutions Supporting the Work of the Council for Peace and Security

The Non-Aggression and Common Defence Pact referred above also established further institutions provide theoretical support to the Council for Peace and Security. From those, the objective of the African Peace Academy in addition to research is to develop an African peace doctrine in connection with Africa's peace and security.⁶⁴ Presumably also the terror attack in the United States in the autumn of 2001 urged the decision-makers, when passed a resolution on the establishment of an African Terrorism Research Centre.⁶⁵ The main occupation of the Terrorism Research Centre will be to prevent African terrorism and struggle against it. The institute collects information about terrorism and terrorist groups, organises conferences, conducts research. As well as supports the member states in elaborating their anti-terrorism policy.⁶⁶ Finally, also the African Union's International Legal Committee should be mentioned, which supports the work of the Council for Peace and Security in each international legal issue in connection with peace and security, including planning and delineating African borders.⁶⁷

⁶⁰ Subsection (1) of Section 21 of the Record on Establishment of the African Union's Council for Peace and Security.

⁶¹ Subsection (2) of Section 21 of the Record on Establishment of the African Union's Council for Peace and Security.

⁶² Subsection (3) of Section 21 of the Record on Establishment of the African Union's Council for Peace and Security.

⁶³ Subsection (4) of Section 21 of the Record on Establishment of the African Union's Council for Peace and Security.

⁶⁴ Subsection (1) of Section 12 of the Non-Aggression and Common Defence Pact.

⁶⁵ Headquarters of the Terrorism Research Centre will be in Algeria. (EX/CL/Dec. 82 (IV))

⁶⁶ Paragraphs a-b) of Section 13 of the Non-Aggression and Common Defence Pact.

⁶⁷ Paragraph a) of Section 14 of the Non-Aggression and Common Defence Pact.

Pole of the African Union's Execution of the Common Defence and Security Policy

The security policy related role of the Committee and its Chairman was—at least partly—modelled on the UN Secretary-General by the legislators. It is also confirmed by the fact that according to the AU's Deed of Foundation the Committee performs the duties of the Union's Secretariat.⁶⁸ Security and defence policy related functions of the Committee's Chairman may be categorised into four groups. On the one hand, the Chairman has some 'watchdog' role, which means that it may threaten in any case, which according to his judgment may threaten the continent's peace, security, and stability, he will call the attention of the Council for Peace and Security as well as he may call the attention of the Committee of Wise Men.⁶⁹ In addition, personally or via representatives or possibly delegates, by means of the Committee of Wise Men or Regional Mechanism, he takes part in preventing conflicts, finding resolution for conflicts, and facilitates building peace, as well as recovering the original state of affairs.⁷⁰ Besides the above, the Committee's Chairman is responsible for executing the security policy related resolution of the Council for Peace and Security and the Assembly.⁷¹ Finally, he prepares reports and other documents for the Council for Peace and Security so that the Council could efficiently perform its duties.⁷² The Chairman of the Committee during his activity is supported by the Commissioner responsible for Peace and Security, who has considerable role in security policy.⁷³

EVALUATION OF THE NEW SECURITY POLICY RELATED MECHANISM —CONCLUSIONS

In the beginning fifty-three member states of the Organization of African Unity⁷⁴ perceived that their continent has a mission in the world order in *statue nascendi*. Our eyes scanning the future glanced at a uniform, strong, and independent Africa. However, They also understood that in order to achieve their goals, first of all their land should be more peaceful and safer, because without those there is no economic

⁶⁸ Subsection (1) of Section 20 of the Deed of Foundation.

⁶⁹ Paragraphs a- b) of Subsection (2) of Section 10 of the Non-Aggression and Common Defence Pact.

⁷⁰ Paragraphs c) of Subsection (2) of Section 10 of the Non-Aggression and Common Defence Pact.

⁷¹ Paragraphs a-b) of Subsection (3) of Section 10 of the Non-Aggression and Common Defence Pact.

⁷² Paragraphs c) of Subsection (3) of Section 10 of the Non-Aggression and Common Defence Pact.

⁷³ Subsection (4) of Section 10 of the Non- aggressed and Common Defence Pact.

⁷⁴ All states of the continent—except for Morocco, because the North- African country decided in 1984 to leave the OAU due to admission of Western Sahara, and Morocco has never rejoined since then—are or where the members of the African Union and its legal predecessor, Organization of African Unity.

development. (Klingebiel, 2005: 35-36) The Common Defence and Security Policy as a prototype of the 'Cairo Mechanism' were unable to guarantee conditions of prosperity. The new model replacing it gives reasons for anxiety and infuses hope at the same time for those who stand for a more peaceful world.

Compared to the previous one, it may be considered as a step forward that the Deed of Foundation provides the right of intervention to the African Union, (Cilliers-Struman, 2004: 97) if in any member state the above mentioned conditions determined in the related legal documents exist the member state may also request the Union's intervention. Besides, the independent African Standby Force set up by the member states will perform the task of 'Pan-African' military intervention. It is thus possible to avoid that the possible military intervention would violate international law. The architecture of the new security policy is more perhaps for more—sophisticated and detailed, and unambiguously determines the rules of the scope of authority. Also the principles constitute the basis of Common Defence and Security Policy. They demonstrate the mechanism has already crossed boundaries of inter-governmentalism. Thus the declaration determines among others the unity and indivisibility of the security of African states, as well as it seem to underlay the right of intervention, and a structure exceeding the traditional interstate boundaries to enforce the common policy.

However, it gives reason for pessimism that the African Union has been organised along democratic principles. Although the overwhelming majority of the states that set it up are not democratic. The legal predecessor the Organization of African Unity was referred by many people as the 'club of dictators', and unfortunately the picture of the African Union is not more favourable. If only the countries elected in the Council for Peace and Security are taken into consideration⁷⁵, it may be stated there are a few civilian democracies, moreover there are countries where crimes against humanity and genocides are committed in these days as well. (Cilliers-Struman, 2004:100).⁷⁶ The fault line between the Arabic and black African population, which may be due to historical and cultural reasons, presents further problem is against the unity, and the AU and its legal predecessor, the Organization of African Unity, unsuccessfully

⁷⁵ The following states represent themselves in the Council for Peace and Security based on the resolution of the African Union's Executive Committee passed in 2004: Northern Region: Algeria (for 3 years) and Libya (for 2 years), Central Region: Gabon (for 3 years) and Cameroon and Congo (for 2 years each), Western Region: Nigeria (for 3 years) as well as Ghana, Senegal, and Togo (for 2 years each), Eastern Region: Ethiopia (for 3 years) as well as Kenya and Sudan (for 2 years each), Southern Region: Republic of South Africa (for 3 years) as well as Lesotho and Mozambique (for 2 years each). (EX/CL/Dec. 81 (IV).

⁷⁶ For example: Sudan, Algeria or Congo.

struggled with it so far. Similarly, it gives no reason for optimism that for those who dreamed of the new security policy model mainly the UN was the model, and also the UN's efficiency in international peace and security may be at least disputed based on Africa's logistical backwardness. However, the most serious concern perhaps is that the African Union and its security policy mechanism is quite expensive, and the question is rightly arising whether the African countries over-undertook themselves, in other words should they not slow down the speed of their approach. (Cilliers-Struman, 2004: 104) Finally, the situation is made more difficult by that the African (security policy) integration theoretically is or would be driven by regionalism in the continent, however so far it seems it is rather an obstacle than the engine of the unification process.

The pros and cons of the new Common Defence and Security Policy may be enumerated, but in our opinion also the old saying is correct, the proof of the pudding is in the eating'. All in all we should wait until the new African security policy is tested in practice. For the time being it seems it does not perform superbly, since due to the first serious challenge, the 'Darfur-Crisis' the new security policy architecture is quite cracking. In spite of it, in our opinion we should show patience, understanding, and proper optimism to the Common Defence and Security Policy. It is one of the reasons that the resolution definiteness of the African leaders is almost palpable from various legal documents, positions, and statements for creating a more peaceful and better Africa, on the other hand, the outlined security policy architecture, including all fault line and shortcoming, seems to be suitable to achieve the required objectives.

