



**NATO Stability Policing
 Centre of Excellence**



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Syndicate # 3

***NATO SP interaction and interoperability with the HN and IOs within the
 Criminal investigation framework***

1.TOPIC TO BE ADDRESSED	2.DISCUSSION	3.CONCLUSION	4.RECOMMENDATION	5.RECOMMENDED TASKING AUTHORITY
<p>During the NATO missions, the criminal investigation framework, (one of the stability policing tasks) has not been properly addressed and set.</p>	<p>Soon after deployment within a theatre of operations, NATO conventional or specialised forces had to deal with ethnic disputes that have been settled by violence, victims of terror, of rape, of expulsion from their homes, or simply of mass execution.</p> <p>Post deployment, the management of the investigation of the crimes against humanity has not been addressed in a comprehensive manner by the entire International Community, which had the role to support the Host Nation.</p> <p><u>The Report of the UN Secretary-General from 12th of July 1999</u> reflects part of the above mentioned: "While KFOR is currently responsible for maintaining both public safety and civil law and</p>	<p>The Host Nation Police Force (HNPF) CI capacity shall be assessed together with other criminal justice components, such as prosecutors, courts, and the correctional system.</p> <p>As first mover within the ToO, the NATO intervention capacity requires a CI mandated capacity to be coordinated with different IOs that are involved.</p>	<p>1. NATO should consider the CI-SP task as an effective tool for:</p> <ul style="list-style-type: none"> - ensuring the Protection of Civilians and Human Rights; - contributing to reach SASE; - increasing CIMIC and FP; - addressing Counter Insurgency and Terrorism; - increasing NATO and HNPF accountability; - a smoother transition 	<p style="text-align: center;">NATO HQs Bi-SC</p>

	<p>order, its ability to do so is limited due to the fact that it is still in the process of building up its forces. <i>The absence of a legitimate police force, both international and local, is deeply felt, and therefore will have to be addressed as a matter of priority.</i>"</p> <p><u>Legal framework</u></p> <p>The assessment of the local juridical framework (criminal law and criminal procedure code) is an important preliminary factor, so that local population complies and accepts the actions taken within the Criminal Investigations (CI) Framework conducted by the International Community (IC), which includes NATO. Moreover, the legal provisions applicable to the CI may be correlated and interpreted together with social, cultural, religious, and ethnic elements.</p> <p>The limit of the executive mandate should be stated clearly within the UN resolution /SOFA/MoU/TA, before the deployment of personnel.</p> <p>Crimes against humanity will require special attention and need to be addressed in a comprehensive manner by the IC together with the host nation (HN).</p> <p><u>Contributors to the CI mission within the theatre of operation</u></p> <p>Experience shows that international organizations (IOs), such as NATO, UN, EU, OSCE, AU, and partner nations on bilateral or multilateral agreement basis can be involved within the CI framework to support the HN efforts towards stabilization and reconstruction.</p>	<p>NATO, as part of the IC, needs to be prepared to mitigate shortfalls regarding CI capacity in areas such as personnel, logistics, and finance for the mission.</p> <p>Different IOs involved in replacing the indigenous police CI capacity need to be coordinated and interoperable in order to avoid uncoordinated actions that might generate unplanned effects. If they are not, the crisis resolution would be impossible to predict and long term IC commitment would be necessary, which may create higher costs.</p> <p>The NATO Stability Policing (SP) CI capacity must be downsized towards transition to the HN or international civilian</p>	<p>to indigenous Police Forces or International Civil Police missions.</p> <p>2. The NATO fact-finding missions shall address the CI capacity of the HN in order to predict a potential SP replacement or reinforcement mission.</p> <p>3. The NATO involvement through the SP component within the CI framework shall be based on a thorough assessment of the HN legal framework, the international mandate, arrangements with HN, and participating nations' caveats.</p> <p>4. The executive NATO mandate regarding CI shall</p>	
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	<p>NATO CI expertise addressed at the highest level within the chain of command (CoC) may support the effective implementation of the mandate and the creation of clear coordination and interoperability channels with other IOs involved in the matter.</p> <p>Clear functional responsibilities regarding the military CoC and judicial authority help the assets involved in CI to achieve the tasks.</p> <p>In supporting the overall CI framework within the theatre of operation (ToO), all NATO/national assets involved in any kind of task need to be trained on the basic knowledge of preserving a crime scene.</p> <p>The aforementioned IOs require cooperation and communication channels for performing the CI tasks with international police organizations, such as INTERPOL, EUROPOL, FRONTEX, and EGF.</p> <p>The roles regarding CI within the area of operation (AoO) requires a clear picture concerning competencies amongst different IOs with CI capacity in order to avoid uncoordinated actions that might generate unplanned effects. Nevertheless, information exchange among the involved actors is crucial. Sensitive topics framed within CI, such as witnesses protection and correction, require special attention for closing the criminal justice loop.</p> <p>As HN ownership has always been the central idea within any NATO mission, the CI capacity must be seen as a tool to be used in the initial engagement of the SP replacement mission for</p>	<p>police mission. It must assess level of violence and if criminality has diminished.</p> <p>NATO SP CI capacities may assist the military aspect of the mission by contributing to civil military cooperation (CIMIC), force protection (FP), counterinsurgency, and reducing risk. It can be considered as tool for a smoother transition to indigenous police forces or international civil police missions. Crimes against humanity require special attention and need to be addressed in a comprehensive manner by other international judiciary authorities on a case by case approach.</p> <p>NATO and IOs need to consider that not all countries are signatories of the</p>	<p>be clearly reflected within the CONOPS and the OPLAN.</p> <p>Specifically, NATO stability policing assets must be empowered with executive police powers to include the use of force, as well as the power of search and arrest. Appropriate mechanisms of coordination with the local judicial and correctional systems will be necessary. As all state functions shall be represented by indigenous structures, entities and forces, a new local police force shall be built as soon as possible.</p> <p>5. The HNPF assessment in terms of CI capacity shall reveal the</p>	
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	<p>the eventual transition authority. All the solutions in CI should be tailored according to the specific local context and to the estimated time frame of completion.</p> <p>Institutional gap / Indigenous police force capacity</p> <p>It is essential to know the historical and current criminal investigation justice capacity and structure of the host nation in order to plan engagement in terms of required specialized forces, human resources strength, logistics, and financial needs.</p> <p>It is important for police, prosecutors, and courts to be assessed within the criminal investigation justice capacity to understand the gaps, such as in education and training, strength, and interoperability needs.</p> <p>The NATO SP replacement mission, as well as CI, should be thought and planned to be as short as possible in order to give to the host nation ownership.</p> <p>The ideal situation should be given by a clear mandate to address responsibility within the CI framework. It may include assessing the material competence of the host nation, but also the temporal perspective limits, and take into consideration the handover / takeover process.</p> <p>Addressing criminality within a fragile environment is always a challenge from the military perspective and requires a specialized approach.</p> <p>The ideal situation is to concurrently address the replacement and reinforcement missions. If</p>	<p>Rome Statute of the International Criminal Court. Additionally, witness protection and correction require special attention within the CI framework. Criminal investigations might rely on law enforcement agencies able to operate under the military chain of command within a fragile environment.</p> <p>For achieving CI capacity of the HN, there must be a system of cooperation between the replacement and reinforcement components of the mission.</p> <p>NATO CI involvement can be seen as an important tool for the protection of the civilians and to ensure a safe and secure environment (SASE). In terms of SP, a one size fits all approach does not exist and</p>	<p>structural, educational, training, and judicial gaps.</p> <p>6. The NATO approach towards the CI framework must consider the stability policing replacement initial engagement in Crisis Response operations.</p> <p>7. CI structure and competencies should be clearly defined prior to deployment based on the fact finding mission assessment and revised according to the given context, whenever necessary.</p> <p>8. The NATO shall take into consideration potential contributions to the CI replacement and</p>	
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	<p>this is not possible regarding CI capacity of the HN, there must be a coordinated approach between the two SP missions.</p> <p><u>Criminality risk assessments</u></p> <p>The host nation criminality must be assessed taking into the roots of criminality and considering possible transnational criminality at the regional level.</p> <p>Cultural, social, religious, ethnic and economic factors should be taken into consideration in the criminality assessment.</p> <p>The IOs and nations with responsibilities in the mission may conduct continuous assessments, which is an important factor during the all phases of the mission.</p> <p>Creating benchmarks within the criminal investigations framework can help the planners to understand the mission horizons.</p> <p>The operational planning process (OPP) can be facilitated if the criminal investigation capacity of the troop contributing nations (TCNs) is predetermined.</p>	<p>each SP mission (either replacement or reinforcement mission), operation, or activity needs to be tailored to the local public order, security, civil society, and police conditions and needs.</p> <p>Preserving a crime scene shall be the intention of all the assets involved in NATO missions as a prerequisite to the CI process.</p> <p>Collection of the lessons identified, lessons learned, best practices (BPs) from different ToO within the CI framework is essential.</p>	<p>reinforcement efforts, in order to mitigate shortfalls regarding CI capacity in areas such as personnel, logistic and finances.</p> <p>Specialized gendarmerie type forces can achieve such task either under a NATO, UN, or EU umbrella.</p> <p>9. Responsibilities such as tasking authority and reporting process, regarding CI within the ToO must be clearly established in respect to military CoC and the functional subordination to the criminal justice component.</p> <p>10. CI benchmarking and condition based transfer of authority regarding CI capacity shall be</p>	
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			<p>established during the planning phase of the mission.</p> <ol style="list-style-type: none"> 11. Common internationally agreed standards and terminology regarding CI should be implemented in NATO doctrine. 12. NATO shall interact with international police and justice components to address criminality in different ToOs in order to collect observations, lessons identified, lessons learned, and best practices within the law enforcement and CI framework. 	
<p>Host Nation Police Force capacity building within the Criminal Investigation Framework.</p>	<p>CI capacity of the HN provides legitimacy to the government and security to the civilian population, which enables a culture of lawfulness, social stability, and economic reconstruction. As proven in the past, there are many contributors to the HN Police capacity building mission, such as NATO, UN, EU, OSCE, AU,</p>	<p>The desired end state regarding SP CI should be the existence of a nation-wide, professional CI structure for the HN, which possesses the ability to effectively</p>	<ol style="list-style-type: none"> 1. NATO should assess the option of consulting with gendarmerie type forces to address building the CI capacity of the HNPF. 	<p>NATO HQs Bi-SC</p>

	<p>and other partners. Currently, there is no established international authority to coordinate lines of effort in conduct capacity building amongst law enforcement agencies. Therefore, creating a coordinate approach to conduct CI capacity building is difficult. One option for NATO could be to engage the gendarmerie type forces of NATO members for training, monitoring, evaluating, advising, mentoring, partnering, and reforming the HNPF CI capacity. The rationale for this engagement is because these forces have specialised units that perform criminal investigations on a daily basis in their origin countries and have been previously engaged in these activities under a UN umbrella. Due to this, they are able contribute to:</p> <ul style="list-style-type: none"> - Understanding the organization and strength of the HN judicial system; - Assessing the risks generated by the corruption and political influence in relation to building a real CI capacity; - Educating, training, mentoring, monitoring and advising HNPF to be specialized in CI within the judicial system; - Evaluating the HNPF to ensure improved capability within the CI framework. <p>A NATO training command in the mission could assess the key factors, such as the organizational structure, the information sharing system, the way to cooperate with prosecutor, courts, correctional system, and</p>	<p>operate without the support of NATO and IOs. Effective CI will lead to increased reinforcement mission success. In addressing capacity building of the HNPF within the CI framework, personnel involved in training, monitoring, advising, mentoring, partnering, and reforming should have the national legal authority and expertise in performing criminal investigations on a daily basis in their origin countries. It is important for NATO to contribute to the building of the HNPF CI capacity, which is a key element of the public order and safety, for the stabilization of the HN.</p>	<p>2. NATO should create a training command from the beginning of the reinforcement mission to ensure the HNPF will be trained to the same minimum standards across the HN. 3. NATO should continuously reassess its mission in order to plan for an exit strategy. Additionally, NATO should analyze how the mission will provide institutional knowledge of CI for the transitional authority.</p>	
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	<p>executing CI process effectively based on an agreed upon system with the HN in order to execute successful reinforcement of the CI framework.</p> <p>Minimum standards for the HNPF shall be established by NATO, together with IOs and the HN, in order to ensure that all selected police officers can perform CI successfully.</p> <p>It is essential that training within CI framework be addressed in comprehensive manner with prosecutorial and judicial elements.</p> <p>Additionally, assistance to the HNPF within CI framework should include providing expertise regarding equipment and facilities necessary to perform effective CI.</p>			
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