

**Welcome speech of the Netherlands' Minister of Defence, E. van Middelkoop, to the T.M.C. Asser Institute, 11 oktober 2007**

Ladies and Gentlemen,

It is perhaps slightly provocative that we are gathered here and that I am speaking to you.

We are in a church built for a religious congregation in Holland called the 'doopsgezinden'. Their community was begun in the 1500s by the Frisian church reformer Menno Simons. They are hence known as Mennonites in the rest of the world.

The 'doopsgezinden' – or Mennonites – are above all known for their long-established commitment to nonviolence and pacifism. They refused military service and the bearing of arms. This brought them into regular conflict with the Dutch and other authorities.

Now, however, we are gathered in their church to discuss European crisis management, which may include the use of military means if all else fails. And I am speaking to you as minister of Defence and as the representative of a Christian political party. Menno Simons might not have approved of either this conference or my presence. He would not even have approved of my taking on the job of minister of Defence. I have reason to hope, however, that Tobias Asser, the great pioneer of international law who was awarded the Nobel Peace Prize in 1911, would not have objected. It is therefore a particular pleasure to welcome you on behalf of the Asser Institute.

Ladies and Gentlemen,

This conference is devoted to the legal *and* the policy aspects of EU crisis management. My argument will be that these two aspects cannot be separated, that they are linked by an aspiration to maintain high standards for ourselves. The EU must never apply military force mindlessly or heartlessly. We must always keep a clear view of the adverse consequences of the use of military force, in particular for civilians. But I also stress that the EU will be increasingly challenged in this regard as it takes on more responsibility in the world. It is far easier to retain the moral high ground if the fighting is done elsewhere or by

others. The challenge before us therefore not only concerns legal or policy aspects: it is a moral challenge. (The spirit of Menno Simons is here after all.)

I do not, however, want to pass over the legal and policy aspects. So I will make some remarks on both, starting with the development of Europe's Security and Defence Policy – briefly known as ESDP.

The ESDP is still a relatively recent arrival on the international scene. This helps to explain many of the difficulties it encounters. But even so, its development has been remarkable. The ESDP was launched in Cologne in 1999, some eight years ago. It has – broadly speaking – seen two phases of development: the first was the establishment of the ground rules of ESDP in the years 1999 and 2000; the second phase began late 2003 and early 2004 with the creation of new institutions and initiatives.

In the aftermath of the terrorist attacks of 11 September 2001 EU High Representative Javier Solana drew up the first European Security Strategy. Approved in December 2003, it underscored that terrorism was a real threat, along with the proliferation of weapons of mass destruction, regional conflicts, 'failing states' and organised crime.

The European Security Strategy also summed up that the EU should become 'more active, more capable and more coherent'. It called for an improvement of European defence capabilities, in order for the EU to be able to intervene early, quickly, and if necessary robustly. A credible European foreign policy would depend on the existence of credible European defence capabilities.

After developing the concepts, institutions and goals, the EU has become more active. Besides a military mission in Bosnia-Herzegovina, the EU provided military support to the UN mission MONUC in the Congo last year and is now considering a military deployment in Chad and the Central African Republic. In addition, the EU is present with civilian missions in Bosnia, Darfur, Congo, Iraq, the Palestinian territories and Afghanistan. The EU also contributed with a mission to the resolution of the conflict in Aceh in Indonesia. Not to forget the possibility of the deployment of the largest upcoming civilian ESDP mission in Kosovo.

In playing a more active role it becomes increasingly clear that the EU faces new challenges and that there is significant room for improvement. I am convinced, for instance, that the European Union has to make better use of its resources. The European Union has the means to be active in fields as development aid, military presence, rule of law and economic reconstruction. That is unique. There is no other international organisation that possesses all these resources at the same time. It is a matter of using all these resources in the most efficient and effective way. This requires a more integrated approach and better coordination within and between the different pillars of the Union.

The EU also needs to look for co-operation with other international actors, recognising that the EU usually takes part in a broader effort by the international community. Initiatives as have been taken to enhance the relationship with the UN and the African Union can therefore count on my support. Even more important is that we improve the relationship with NATO. We can not afford competition between the EU and NATO. Both organisations are valuable contributors, each with there own merits and efforts, to peace and stability in the world. As president Sarkozy of France recently said: we should seek pragmatic solutions for better cooperation. That is why I think that we should welcome Sarkozy's willingness to consider a return of France into NATO's military structure as an opportunity for improvement in the NATO-EU relationship.

Ladies and Gentlemen,

I already mentioned that the EU is unique in the many different instruments at its disposal. Another unique feature that has been attributed to the EU is its emphasis on the development of a stronger international society, well functioning international institutions and a rule-based international order. Together, this has been referred to as 'the European way' by High Representative Javier Solana.

Before Solana spoke about the European way, it has been suggested by others that there is a fundamental difference between Europe and the United States in their way of handling international crises. Robert Kagan, for instance, argued that 'Americans are from Mars and Europeans from Venus'. If it ever was a reality, it is increasingly less so. Americans have in recent years come to recognize the need for a comprehensive approach and the importance of international institutions, including diplomacy and development. At the same

time Europeans are increasingly taking their responsibility when it comes to military challenges.

As a result of the latter, the EU might in the future become involved in situations which very much resemble an armed conflict. This also raises the question what the legal and moral aspects of such involvement are. As you all know, the law regulating situations of armed conflict is International Humanitarian Law. Are EU operations bound by this law when they become involved in hostilities? I know that this will be one of the questions you will be discussing over the next two days. I would like to offer some thoughts on this topic.

As I mentioned before, respect for international law is an important objective of the EU. The European Security Strategy states that we are committed to upholding and developing international law.

The EU strongly encourages others to respect international law. In the particular case of International Humanitarian Law, it has even adopted guidelines on promoting compliance with this branch of law.

The EU, fortunately, has from the outset recognized the importance for its crisis management operations to fully respect International Humanitarian Law where it is applicable. This is not as obvious as it may seem: the United Nations for example was for a long time ambiguous on the applicability of this field of law to its peace operations.

I am convinced that if and when EU forces become involved in such hostilities, they are fully prepared. Not only to carry out the mandate that they been given, but also to respect the obligations under International Humanitarian Law that become applicable to them.

I think the problems concerning the combination of EU crisis management operations and International Humanitarian Law are not on the EU side. Rather, they come from the side of the potential adversaries of such operations. Such adversaries are more often than not non-state actors or even terrorist groups. They do not engage in open confrontation but prefer to use instruments such as roadside bombs, human shields and suicide attacks. They show little regard for even the most fundamental principles of the law such as the principle of distinction between combatants and civilians. The Taliban in Afghanistan are a prime example. They

have committed horrendous atrocities against the civilian population. They purposively use civilians as human shields. This illustrates some of the difficulties confronting crisis management operations when we fight such enemies.

In the face of such enemies the answer is not for us to put aside the rules of International Humanitarian Law as well. On the contrary, it is all the more important to respect these rules. This is also vital in order to gain the trust of the local population for whose benefit we are there. As I stated in my introduction, it is important that we keep our standards high when we use military force.

This does not mean that it is always a hundred percent clear what these standards are. After all, the Geneva Conventions were primarily written with classical inter-state conflict in mind. We should try to clarify the standards where necessary and continuously consider whether the current legal regime is still adequate in the face of new challenges. I invite you to consider this issue, which is of vital interest for our soldiers in the field.

We must continually regard military violence from a moral perspective. We have to take care to minimize the potential adverse consequences of the use of military violence for civilians. For this reason I recently decided that Dutch armed forces in general will no longer use cluster munitions until an international agreement has been reached. If there is, in a very specific situation, a convincing military rationale for the use of these weapons, I shall inform Parliament. Next week I will speak with the members of parliament about this important issue.

Ladies and Gentlemen,

The European Union is often rightly criticized for being an ineffective player in international crisis management. It is nevertheless remarkable what has been achieved in recent years. Taking the military and civilian activities under the ESDP into account, we can at least say that the EU is beginning to pass the age of innocence.

One month ago, president Sarkozy presented his views on the role of France in the international arena. He announced to have: '*great ambitions for the European Union and its natural place at heart of an efficient and just multilateral system*'. I might not agree on all of

the ambitions that president Sarkozy wants to fulfil during France's Presidency of the EU next year, but I do agree that Europeans need to take their responsibility in the service of their own security and that of the world. I also agree that we need more and better capabilities to do so. In other words, the EU not only has to become more active and coherent, what counts the most is that the EU has to be more capable. Only by improving their own capabilities, can Europe take on more responsibility for bringing peace and stability in the world.

Ladies and Gentlemen,

Being in this church, I would like to conclude by using the words of a famous theologian, who also happens to be called the father of International Law. Hugo Grotius personal motto was: Ruit Hora. In other words, time flies. You have only two days of discussions to address important issues, so let me not take any more of your time. I wish you an inspiring and fruitful conference.

Thank you for your attention.