

THE LEGAL DIMENSION OF DEFENCE POLICY WITHIN THE EUROPEAN UNION

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Abstract

The paper examines the legal dimension of defence policy within the European Union in the context of profound transformations in the international security environment, characterized by volatility, multipolarity, and the intensification of geopolitical competition. In this framework, the European Union is compelled to redefine its role as a global actor and to strengthen its capacity for action through the development of a coherent and effective security and defence policy.

The analysis traces the historical evolution of the Common Security and Defence Policy (CSDP), from the early initiatives of European cooperation in the field of defence to its legal consolidation under the Treaty of Lisbon. It highlights the main institutional and conceptual milestones, as well as the role of recent instruments aimed at enhancing the Union's defence capabilities.

From a legal perspective, the paper examines the normative foundations of the CSDP, emphasizing its intergovernmental nature and the structural tension between the objective of establishing a common defence and the preservation of Member States' sovereignty in defence matters. The analysis focuses on the relevant provisions of the EU Treaties.

In conclusion, the paper argues that, despite significant progress in the development of the legal and institutional framework of defence, structural limitations continue to hinder the realization of a genuine common European defence. Nevertheless, recent developments indicate a clear trend towards strengthening the Union's role within the global security architecture.

Keywords: *Common Security and Defence Policy (CSDP), Treaty on European Union (TEU), mutual defence clause, strategic autonomy, European integration.*

1. Introduction

The international security environment is currently characterised by a complex and continuous dynamic, marked by volatility and uncertainty, whose unpredictability frequently exceeds the reactive and responsive capacity of States. The transition from a unipolar to a multipolar world order constitutes a complex phenomenon entailing the reconfiguration of international relations and global dynamics, and generating an intensification of geopolitical tensions among the principal international political actors. Relations between State and non-State actors are characterised, on the one hand, by a pronounced level of interdependence across a wide range of activity domains and, on the other, by increasingly acute geopolitical tensions and an intensification of strategic competition. A process of rebalancing global power dynamics is underway, characterised by the reshaping of political, economic, and security alliances, the emergence of regional alliances as expressions of a desire for enhanced autonomy vis-à-vis traditional powers, and a recurrent realignment of allegiances. This has generated considerable pressure upon traditional alliances, necessitating a redefinition of the global geopolitical system.

As a consequence of the manifestation of increasingly individualised, divergent, and antagonistic interests among State and non-State actors, as well as the amplification and diversification of influential factors particularly those of an asymmetric nature the current security environment has become increasingly fragmented and more conducive to the emergence and escalation of conflicts. The arsenal of means employed to advance interests has become progressively more varied. A discernible tendency has emerged, particularly among major powers, to substitute diplomatic solutions with coercive measures ranging from economic and financial sanctions to armed interventions thereby displacing the rule of law with the law of force, which engenders heightened concern and profound uncertainty within the global landscape.

The current international political context, with its diverse range of threats and challenges, poses an increasingly serious danger to the European continent. Accordingly, the European Union must redefine its common foreign policy and, by extension, its defence policy proceeding, on the one hand, from the obligation to

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ensure the protection of its constituent States and citizens and, on the other, from the necessity to consolidate and assert its status as a global actor on the present international political stage, as an active participant in the construction of the new international security architecture within which it aspires to constitute one of the poles of power.

One of the essential elements for the fulfilment of this objective is the definition and promotion of an effective, coherent, and credible defence and security policy, capable of providing the framework and instruments necessary for developing the Union's capacity for action, reaction, and adaptation in an increasingly unstable and uncertain environment. Defence policy must be legitimised through a robust legal foundation and through a continuously reinforced legal capacity in this domain.

In the present study, the authors set out to examine a series of issues concerning the legal basis of the Common Security and Defence Policy (CSDP), the efficiency, coherence, and sustainability offered by the current legal framework for the development of defence cooperation, as well as the limitations of that framework in the creation of genuine common defence at the level of the Union.

Methodologically, the paper employs a doctrinal and normative analysis of primary sources of European Union law, principally the Treaty on European Union and the Treaty on the Functioning of the European Union, as well as institutional documents, strategic frameworks, and relevant academic literature.

The analysis is conducted from a combined legal-institutional perspective, examining both the textual provisions of the Treaties and their practical implementation through CSDP missions and operations.

In terms of its relationship to the existing literature, the present paper draws upon relevant academic contributions which have examined the specificity of the defence domain in the law of the European Union, as well as the governance structures of the Union's defence activities.

The paper seeks to consolidate and extend these contributions by situating them within the broader context of the Union's recent strategic evolution, particularly in light of the geopolitical developments following Russia's aggression against Ukraine.

2. The Evolution of the European Security and Defence Policy

The aspiration towards a common European security and defence policy has deep historical roots, originating in 1948, when France, the United Kingdom, Belgium, the Netherlands, and Luxembourg concluded the Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence, known as the Brussels Treaty/Brussels Pact.¹

Implementation of the commitments undertaken under the Treaty was entrusted to the Western Union, established pursuant to Article 51 of the United Nations Charter² as a regional organisation, designed to promote collective security and to guarantee automatic and immediate mutual assistance in the event of aggression against Western Europe.

In 1950, the French Prime Minister René Pleven proposed the establishment of the European Defence Community, to be composed of France, West Germany, Italy, and the Benelux States. The Pleven Plan envisaged the military reconstruction of Western Europe in anticipation of a potential Soviet attack, through the military integration of the signatory States and the creation of a unified European army subordinated to supranational institutions. The Treaty establishing the European Defence Community was signed in 1952 and ratified by Belgium, Germany, Luxembourg, and the Netherlands. France, however, objected to the transfer of military decision-making authority to a supranational body and to the rearmament of Germany, and consequently declined to ratify the Treaty. Although the plan was never realised, the Pleven Plan may be regarded as a foundational step in the process of European integration in the field of defence.

In 1954, the Paris Conference revised the Brussels Treaty, transforming it into the Modified Brussels Treaty. Italy and Germany acceded to the Treaty, and the Western Union was reconstituted as the Western European Union (WEU).³

¹The Treaty became part of NATO documents. In December 1950, the signatories of the Brussels Treaty decided to transfer the headquarters, personnel, and plans of the Western Union Defence Organisation to the Alliance.

²United Nations Charter, Chapter VII, Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression, Article 51, <https://www.un.org/en/about-us/un-charter>.

³Modified Brussels Treaty (Paris, 23 October 1954), Article VIII(2), https://www.cvce.eu/en/obj/modified_brussels_treaty_paris_23_october_1954-en-7d182408-0ff6-432e-b793-0d1065ebe695.html

Against the backdrop of Europe's efforts to develop a common foreign and security policy and to achieve an equitable partnership with the United States within NATO,⁴ the concept of the European Security and Defence Identity took shape. This concept, advanced at the Copenhagen European Summit (December 1973),⁵ marked the commencement of a process by which European States sought to develop a distinct and independent defence capability, separate from those of NATO and the United States.⁶ Without opposing Euro-Atlantic defence efforts, the process aimed at strengthening the European pillar of the Alliance, to the benefit of both the interests of the signatory States and the reinforcement of NATO's overall strength.

A significant milestone in the development of the European Union's security and defence policy was the adoption by the WEU Council of the Platform on European Security Interests (The Hague, October 1987), which underscored the importance of developing a European security pillar within NATO. The Platform defined the objectives and structural changes necessary for the development of a European identity in the field of security and defence.

The Treaty on European Union/Treaty of Maastricht (February 1992) constitutes the founding instrument of the European Union. Under its provisions, the EU was founded upon three pillars: the European Communities, the Common Foreign and Security Policy (CFSP), and Justice and Home Affairs (JHA). In the security domain, the Treaty provided for a policy whose ultimate objective is common defence, with the WEU consecrated as the principal instrument for implementing decisions and actions with implications in the defence sphere.⁷ As a distinct chapter (Title V) of the Maastricht Treaty, the CFSP highlights the fact that security and defence became a significant component of the European construction.

In 1992, the Petersberg Declaration established the spectrum of missions to be conducted by the Western European Union: humanitarian and rescue tasks, peacekeeping missions, and tasks of combat forces in crisis management. On that occasion, WEU member States declared their readiness to make available to the WEU, as well as to NATO and the EU, military units drawn from the full spectrum of their conventional armed forces.

The Treaty of Amsterdam (October 1997) introduced significant amendments to the CFSP. In the security and defence domain, five major objectives were established: the defence of common values, fundamental interests, and the integrity and independence of the Union in accordance with the principles of the UN Charter; the strengthening of the Union's security in all its dimensions; the maintenance of peace and the consolidation of international security; the promotion of international cooperation; and the development and consolidation of democracy, the rule of law, and respect for human rights.⁸ The European Council acquired enhanced competences in defining security and defence orientations, and the newly created post of High Representative for the CFSP was conferred upon the Council's Secretary-General.

The Cologne European Council (June 1999) reinforced the role of the European Union at the expense of the WEU in the security and defence domain. At this Council, the foundations were laid for the European Security and Defence Policy (ESDP), conceived as an integral part of the CFSP. The intention was to develop an autonomous decision-making capacity and to execute military operations under EU authority in response to crisis situations where the North Atlantic Alliance was not engaged as a whole. The ESDP was constituted as an intergovernmental process, with political control exercised by Heads of State and Government of the member States and financial control vested in the national parliaments.⁹ The principal objective (Headline Goal), established by the Helsinki European Council (December 1999), consisted in the creation of a Rapid Reaction Force of 50,000–60,000 personnel, capable of deployment within the theatre of operations for sixty days and for at least one year outside the theatre, able to fulfil the full spectrum of Petersberg missions.¹⁰ Helsinki also

⁴The North Atlantic Treaty Organisation (NATO/the Atlantic Alliance) was established in 1949.

⁵Declaration on European Identity (Copenhagen, 14 December 1973), https://www.cvce.eu/content/publication/1999/1/1/02798dc9-9c69-4b7d-b2c9-f03a8db7da32/publishable_en.pdf; European Institute of Romania, European Security and Defence Policy, 2005, p. 5, https://ier.gov.ro/wp-content/uploads/publicatii/Securitate_si_aparare.pdf.

⁶Declaration on European Identity, paragraph 14.

⁷Dragoş Ilinca, European Security and Defence Policy, Synthesis of the Department for Euro-Atlantic Integration and Defence Policy, Ministry of National Defence, Bucharest, 2006, p. 2, apud Alexandru Cristian, The Common Foreign and Security Policy of the European Union, INTELLIGENCE INFO, Volume 1, Number 1, September 2022, p. 4.

⁸Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts (97/C 340/01), Part One, Substantive Amendments, Title V, Provisions on a Common Foreign and Security Policy, Article J.1.

⁹European Institute of Romania, European Security and Defence Policy, 2005, p. 6, https://ier.gov.ro/wp-content/uploads/publicatii/Securitate_si_aparare.pdf.

¹⁰Presidency Progress Report to the Helsinki European Council on Strengthening the Common European Policy on Security and Defence, in European Union Foreign, Security and Defence Policy. Basic Documents, pp. 278–279, apud European Institute of Romania, op. cit., p. 6.

addressed the institutional structures of the EU required to facilitate decision-making in the defence domain, leading to the establishment of permanent political and military bodies: the Political and Security Committee (PSC), the EU Military Committee (EUMC), and the EU Military Staff (EUMS).

The Declaration on European Security and Defence Policy (December 2002) established the foundations of the EU–NATO strategic partnership. The Declaration stipulated that 'while NATO remains the foundation of collective defence of its members, the European Security and Defence Policy (ESDP) has added to the range of instruments already available to the EU the capacity to conduct crisis management operations independently.'¹¹ The Declaration, together with the Berlin Plus arrangements (2003), constitutes the foundational documents of the EU–NATO strategic partnership.¹²

In 2003, at Thessaloniki, Javier Solana, the High Representative for the CFSP, presented the Security Strategy (the document entitled *A Secure Europe in a Better World*), which defined three core objectives: stability within the borders of the European Union and good governance in its immediate neighbourhood; an international order founded on effective multilateralism; and an adequate response to both old and new threats.

A significant role in the development of the European Security and Defence Policy was played by the establishment, in 2004, of the European Defence Agency (EDA), whose purpose is to promote a coherent European policy in the field of defence capabilities development, military technological research, and armaments, as well as to support member States wishing to develop their defence capabilities jointly.

The Treaty of Lisbon (January 2009)¹³ placed greater emphasis on defence and security than its predecessor treaties, both through the nomenclature assigned to this policy domain and through its positioning within the broader context of external relations. The Treaty introduced the concept of the Common Security and Defence Policy (CSDP), which superseded the European Security and Defence Policy (ESDP), providing an institutional framework for defence and security cooperation at Union level. The CSDP 'forms an integral part of the common foreign and security policy [and] includes the progressive framing of a common Union defence policy, [which] will lead to a common defence.'¹⁴ The CSDP is intended to provide the Union with an operational capability drawing on civilian and military assets, upon which it may call in the context of missions outside the Union for the purposes of peace-keeping, conflict prevention, and the strengthening of international security, in conformity with the principles of the UN Charter. A mutual defence clause was also introduced, pursuant to which EU member States are obliged to render mutual aid and assistance to any fellow member State subject to armed aggression.¹⁵ The CSDP retained its intergovernmental character, operating on the principle of unanimity in decision-making.

As a result of the increasingly tense international context, the Common Security and Defence Policy has undergone continuous and rapid development, recording significant progress both through the elaboration of the conceptual framework and through the launch of initiatives aimed at developing security and defence capabilities, with a view to transforming the EU into a defence union.

In June 2016, the High Representative Federica Mogherini presented before the European Council the EU Global Strategy for Foreign and Security Policy (EUGS), a strategic document guiding the external action of the EU in the medium and long term, to which the CSDP is subordinated. The Global Strategy underscores the importance of security, the EU's ambition of strategic autonomy, and a pragmatic approach to the geopolitical environment, in order to ensure an effective response to challenges facing the Union and to global stability. In the defence domain, the Global Strategy sought to offer member States significant incentives for operational and industrial cooperation, so as to ensure enhanced strategic alignment and interoperability.

Further significant steps in the domain of common defence policy include the establishment of the European Peace Facility for the period 2021–2027 (2021), designed to finance the common costs of CSDP military missions and operations, and the adoption of the Strategic Compass, whose principal objective is EU strategic autonomy and its transformation into a major actor in the field of security and defence. Consensus was reached

¹¹EU–NATO Declaration on European Security and Defence Policy (ESDP), <https://eur-lex.europa.eu/EN/legal-content/summary/cooperation-with-nato.html>

¹²*Ibidem*.

¹³The Treaty of Lisbon (entered into force January 2009) amended the Maastricht Treaty, renamed the Treaty on European Union (TEU), and the Treaty of Rome, renamed the Treaty on the Functioning of the European Union (TFEU).

¹⁴Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, (49) Common Security and Defence Policy, Section 2 – Provisions on the Common Security and Defence Policy, Article 28A(a) and (b), Protocol on permanent structured cooperation established by Article 28 of the Treaty on European Union.

¹⁵*Ibidem*, (c)(7).

on a common threat assessment and on a strategic vision aimed at transforming the EU into a security provider. A new rapid deployment capacity comprising 5,000 military personnel was created, capable of providing a timely response to crises, and a Union toolkit for countering hybrid threats was elaborated.

The outbreak of Russia's aggression against Ukraine prompted a reassessment of the Strategic Compass and necessitated a series of adjustments designed to address the situation thus created, as well as to redefine the role and instruments of the EU in the field of defence. To this end, a number of documents were elaborated: the European Defence Industrial Strategy and the European Defence Industry Programme; the ReArm Europe – Preparedness 2030 Plan (March 2025), included in the Joint White Paper of the Commission and VP/HR on Europe's Defence Readiness 2030; the Omnibus Package on Defence Preparedness of the European Commission (June 2025); the Defence Readiness Roadmap 2030, a Commission communication published in October 2025; and the EU Strategy 2025 for a Union of Preparedness, which aims to enhance resilience against hybrid threats.

This continuously evolving process has secured a legal, conceptual, and institutional framework capable of providing the prerequisites necessary for the achievement of the objective of 'common European defence'.

3. The Legal Basis for Defence

Long marginalised, the concept of 'defence/common defence' has acquired increasing importance within the process of European integration, progressively finding a more clearly defined place in the law of the European Union.

Through the introduction of the Common Security and Defence Policy aligned with the Common Foreign and Security Policy the Treaty of Lisbon affirmed and consolidated the Union's legal capacity in the defence domain. The importance of the CSDP is underscored by Article 42(1) TEU, which stipulates that 'the common security and defence policy shall be an integral part of the common foreign and security policy.'¹⁶ Defence is no longer perceived as a domain exclusively reserved to member States, but presents itself as a distinct and exclusive domain within the law of the European Union.¹⁷

3.1. Defence Policy and Common Defence

The diverse positions adopted by member States with respect to the defence question are reflected in the differentiated definitions of defence policy and common defence within the Treaties, through 'complex and ambiguous formulations.'¹⁸ Under the Treaty on European Union, the CFSP 'includes the progressive framing of a common Union defence policy [which] will lead to a common defence, should the European Council, acting unanimously, so decide.'¹⁹ This formulation draws a distinction between the two terms: common defence is understood as the ultimate objective, while defence policy constitutes the modality of its realisation. Correlating Articles 3 and 4 TFEU, which define the domains of competence of the EU and those in which competence is shared with member States, with Article 4(1) TEU, according to which 'competences not conferred upon the Union in the Treaties remain with the Member States,' national security remains the exclusive responsibility of each member State. It may be submitted that the Treaty provisions create the possibility of common defence whilst simultaneously guaranteeing the neutral or non-aligned status of certain member States in particular those which are not members of the North Atlantic Alliance.²⁰

Common defence is not clearly defined in the primary law of the EU; accordingly, the interpretation of the object of defence within the Treaty context presents certain difficulties. In the appellation 'Common European Security Policy,' which encompasses the CSDP, the term security is present (whilst the term defence is absent), suggesting that security subsumes defence. Conversely, the appellation 'Common Security and Defence Policy' conveys that security and defence are distinct, albeit interrelated, domains. This association of the two terms persists throughout the CSDP, generating a degree of ambiguity. While this approach permits a broader

¹⁶Consolidated Version of the Treaty on European Union, Title V, Section 2 – Provisions on the Common Security and Defence Policy, Article 42(1), https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0001.02/DOC_1&format=PDF

¹⁷Anne Hamonic, Introduction. Quelle spécificité de la défense en droit de l'Union européenne?, p. 2, https://shs.hal.science/halshs-05099727v1/file/Hal_Hamonic_specificite_defense_droit_UE.pdf

¹⁸Ibidem, p. 3.

¹⁹TEU, Article 42(2).

²⁰Viktor Szep, Ramses A. Wessel, Ester Sabatino, Carmen Gebhard, Edouard Simmon, The Current Legal Basis and Governance Structures of the Defence Activities, p. 7, in ENGAGE, Working Paper Series No. 4 / December 2021, <https://www.researchgate.net/publication/357083078>

understanding of both concepts, it also raises questions as to the extent to which security debates encompass defence proper.²¹

A further difficulty relates to the relationship between the terms defence and military. Article 41(2) TEU refers to operations with 'military or defence implications,' leading to the conclusion that the two constitute distinct domains a proposition that is neither practically feasible nor doctrinally accurate. Conversely, a series of Treaty references indicates that the military domain is subsumed within defence. The CSDP provides the Union with an operational capability based on civilian and military assets, in that member States 'shall make civilian and military capabilities available to the Union for the implementation of the common security and defence policy, to contribute to the objectives defined by the Council. Member States which together establish multinational forces may also make those forces available to the common security and defence policy.'²² Likewise, in fulfilling the established missions, the Union 'may use civilian and military means.'²³ It may thus be concluded that defence encompasses forces and assets capable of conducting military operations, and possesses two dimensions a military dimension and a civilian dimension. Within this binary framework there persists a degree of uncertainty stemming from the fact that not all military actions automatically fall within the concept of defence at Union level, which complicates the determination of whether particular situations carry defence implications.²⁴

Notwithstanding the varying levels of engagement of member States in the domain of security and defence policy, and the ambiguity of certain Treaty provisions, common defence has been established, to a certain degree, at EU level, by virtue of the fact that 'if a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power.'²⁵ This mutual defence clause approximates the concept of common defence, thereby generating a degree of ambiguity relating to the provisions of Article 42(2) TEU concerning what the European Council should decide when Heads of State and Government vote on 'common defence.'²⁶

3.2. Mutual Assistance

Notwithstanding the varying levels of engagement of member States in the domain of security and defence policy, and the ambiguity of certain Treaty provisions, common defence has already been established, to a certain degree, at EU level, by virtue of the fact that 'if a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power.'²⁷ This mutual defence clause approximates the concept of common defence, thereby generating a degree of ambiguity in relation to the provisions of Article 42(2) TEU regarding what the European Council ought to decide when Heads of State and Government vote on 'common defence.'²⁸

The introduction of this clause was not without its challenges, as it was required to harmonise the interests of member States mediating between those which sought a binding mutual defence commitment, those which wished to preserve their neutral status, and those which sought to ensure that the article would not impinge upon NATO, in particular through the elimination of references to military aspects. Nonetheless, Article 42(7) TEU covers collective defence by military means as well, with States offering assistance by all means at their disposal implicitly including military assistance in conformity with Article 51 of the UN Charter. Signatory States (with the exception of Denmark) are obligated to render mutual assistance, without, however, 'prejudice [to] the specific character of the security and defence policy of certain Member States.'²⁹ Although the term 'certain' is not clearly defined, it is generally understood to refer to the neutral States within the EU.³⁰ These States also bear a legal obligation provided their own national security is not jeopardised to render aid and assistance to the

²¹Anne Hamonic, *op. cit.*, pp. 4–5.

²²Consolidated Version of the Treaty on European Union, Article 42(3).

²³*Ibidem*, Article 43(1).

²⁴Anne Hamonic, *op. cit.*, p. 5.

²⁵*Ibidem*, Article 43(1).

²⁶Ramses Wessel, *Common Foreign, Security and Defence Policy*, in R. A. Wessel & J. Larik (Eds.), *EU External Relations Law: Text, Cases and Materials* (pp. 283–326), Hart, *apud* Viktor Szepe, *op. cit.*, p. 7.

²⁷Consolidated Version of the Treaty on European Union, Article 42(7).

²⁸Ramses Wessel, *op. cit.*, *apud* Viktor Szepe, *op. cit.*, p. 7.

²⁹Consolidated Version of the Treaty on European Union, Article 42(7).

³⁰The neutral States are Austria, Switzerland, Ireland, and Malta.

requesting member State, to the extent and with the means deemed appropriate and in conformity with their national defence policy.³¹

Without introducing substantive modifications and overlapping with Article 42 TEU, Article 222 TFEU adds a series of clarifications. It defines the types of events falling within its scope of application terrorist attacks and natural and man-made disasters stipulating that other member States shall provide assistance to the affected State at the request of its political authorities. It further specifies that the Union may 'mobilise all the instruments at its disposal, including the military resources made available by the Member States.'³² Military means are thus expressly enumerated among the instruments that may be mobilised. Article 222 is supplemented by Declaration No. 37 annexed to the Treaties, which provides that none of its provisions 'shall affect the right of another Member State to choose the most appropriate means to comply with its solidarity obligation.'³³

Notwithstanding the significant steps taken towards common defence, it cannot be said that there exists at Union level, with regard to the defence of the territorial integrity of member States, a fundamental function of defence in its traditional national conception.³⁴ The Treaty provisions are designed so as to avoid conferring any role upon the institutions of the Union. The Union merely provides a framework within which a member State may activate the mutual assistance clause, following which exchanges take place in essentially bilateral terms, outside the Union's legal framework.³⁵

3.3. CSDP Missions and Operations

Inasmuch as Article 42 TEU defines the CSDP as an integral part of the Common Foreign and Security Policy (CFSP) and provides the Union with an operational capability based on civilian and military assets, Article 43 TEU enumerates the types of missions in which the Union may employ civilian and military means, and Article 44 TEU permits the Council to entrust the execution of a mission to a group of member States. The missions provided for under Article 43(1) TEU, also known as the 'Petersberg Missions' from 1992, determine the scope of the CSDP.

Following the amendments introduced by the Treaty of Lisbon, Article 43(1) TEU provides an extended list of CSDP activities, including: joint disarmament operations; humanitarian and rescue tasks; military advice and assistance missions; conflict prevention and peacekeeping missions; tasks of combat forces in crisis management, including peacemaking and post-conflict stabilisation. Pursuant to Article 43(1), all such missions may contribute to the fight against terrorism, including by supporting third countries in combating terrorism on their territories. The counter-terrorism dimension thus extends the scope of the CSDP, although from a public policy perspective, it has been an integral part of the Union's external relations since 2001, in particular within the context of the European Security Strategy (Koutrakos, 2013).

Missions and operations conducted within the framework of the Common Security and Defence Policy constitute civilian and military endeavours through which the European Union pursues the prevention and management of international crises. They aim, as a matter of priority, at stabilising the Union's neighbourhood and enhancing the resilience of partner States in the face of a diverse spectrum of threats.

Each mission is established by a Council Decision adopted unanimously pursuant to Article 42 TEU,³⁶ which defines the mission's objective, mandate, duration, and headquarters. Thereafter, political control and strategic direction of EU crisis management operations are exercised, under the responsibility of the Council and the High Representative, by the Political and Security Committee, a body composed of ambassadors of the member States.

As of October 2025, the European Union was conducting twenty-one CSDP missions³⁷ and operations, involving approximately 4,000 military and civilian personnel, thereby evidencing the scale and complexity of the Union's engagement in the domain of international security.

³¹Ibidem, p. 8.

³²Consolidated Version of the Treaty on the Functioning of the European Union, Article 222, Official Journal of the European Union C 326/47, <https://www.clujjust.ro/wp-content/uploads/2015/07/TFUE-RO-tratatul-pentru-functionarea-uniunii-europene.pdf>

³³Ibidem, Declaration No. 37.

³⁴Catherine Schneider, *Le renforcement de la légitimité de la PSDC*, in Auvret-Finck J. (dir.), *Vers une relance de la politique de sécurité et de défense commune*, op. cit., pp. 76–77, apud Anne Hamonic, op. cit., p. 8.

³⁵Ibidem, p. 8.

³⁶Notable exceptions include decisions relating to the European Defence Agency (Article 45 TEU) and permanent structured cooperation (Article 46 TEU), in respect of which qualified majority voting applies.

³⁷Council of the European Union, 'CSDP Missions and Operations', available at: <https://www.consilium.europa.eu/en/policies/csdp-missions-operations/>, accessed 30 March 2026.

The principal objectives of CSDP missions and operations include:

- Security sector reform (EUPM Moldova, EUCAP Somalia, EUPOL COPPS, EUAM Iraq, EUAM Ukraine);
- Border management (EUBAM Libya);
- Support and training of national armed forces (EUMAM Mozambique, EUMAM Ukraine);

3.4. Freedom of navigation (EUNAVFOR Aspides, Atalanta).

A benchmark mission within the Common Security and Defence Policy is the European Union Military Assistance Mission in support of Ukraine (EUMAM Ukraine). This mission reflects the Union's consolidated commitment to supporting the defence capabilities of its strategic partners in the context of the deteriorating regional security environment.

By the end of February 2025, the mission had contributed to the training of approximately 75,000 Ukrainian military personnel, thereby demonstrating both the scale of operational support provided by the Union and the increasingly active role of the CSDP in managing security crises in its immediate neighbourhood.

The financing of CSDP missions and operations is differentiated according to their nature. Military operations are not financed from the general budget of the European Union, but through contributions from participating member States and through the European Peace Facility an off-budget mechanism which replaced the former Athena mechanism and which covers the common costs of such operations. Civilian missions, by contrast, are generally financed from the general budget of the European Union.

4. Conclusions

The corroborated analysis of the legal, institutional, and operational framework of the Common Security and Defence Policy (CSDP), conducted on the basis of the doctrinal and institutional documents examined, reveals a progressive yet profound transformation of the European Union's role in the field of security and defence. Although initially characterised by a limited and predominantly intergovernmental approach, the CSDP has evolved into an essential instrument of the Union's external action, reflecting both the changes in the geopolitical environment and the maturation of the European legal construction.

From a legal perspective, the CSDP is situated within a specific normative framework, enshrined in the Treaty on European Union in particular in Articles 21–46 TEU, which regulate the Union's external action and, specifically, the common foreign and security policy. In this context, the provisions of Articles 42 and 46 TEU configure the CSDP as an integral part of the CFSP, underscoring its external character and its orientation towards missions conducted outside Union territory.

The legal architecture likewise reflects a structural tension between the objective of consolidating a common policy and the preservation of member States' sovereignty in the defence domain, given that national security remains an exclusive competence of the latter.

This legal ambivalence is also evidenced in the conceptual distinction between 'common defence policy' and 'common defence.' Whilst the former is already consecrated through the CSDP, the latter remains a potential objective, contingent upon a unanimous decision by the member States which reflects the current limitations of European integration in the military domain. At the same time, the existence of the mutual assistance clause under Article 42(7) TEU approximates the Union to a model of collective defence without, however, equating therewith, confirming the *sui generis* character of the CSDP.

From an institutional standpoint, the functioning of the CSDP is dominated by intergovernmental logic, with decisions adopted principally by unanimity within the Council of the European Union and the European Council. This decision-making mechanism, whilst ensuring the political legitimacy of actions, limits the Union's capacity to respond swiftly and effectively in crisis contexts. Nonetheless, the documents analysed reveal the existence of flexibility mechanisms such as Permanent Structured Cooperation (PESCO) or the option of invoking Article 44 TEU which permit a group of member States to advance in the defence domain without depending on unanimous consensus. These instruments, described in the doctrine as 'latent potentialities,' demonstrate that the current Treaties offer significant legal resources for deepening integration, even in the absence of formal treaty reform.

On the operational plane, the CSDP has been consolidated as a functional crisis management mechanism, through civilian and military missions and operations conducted in the Union's neighbourhood and in other regions of strategic interest. These pursuits aim at objectives such as the stabilisation of fragile States, security sector reform, border management, and ensuring freedom of navigation thereby contributing to the

consolidation of international security. The number and diversity of these missions reflect the Union's capacity to act as a security provider, even as resources and capabilities remain contingent upon contributions from member States.

Critically, recent developments particularly those occurring after 2022 have marked a significant acceleration of integration in the defence domain. The war in Ukraine has prompted a 'geopolitical reset' and conferred renewed impetus upon the CSDP, highlighting the necessity of consolidating the Union's strategic autonomy and its capacity for response. Instruments such as the European Peace Facility, the European Defence Fund, and the Strategic Compass illustrate this tendency, contributing to the development of military capabilities, the strengthening of the defence industry, and the enhancement of the coherence of the Union's external action.

At the same time, the industrial and technological dimension of defence has become a central element of the CSDP. The documents analysed emphasise that the efficiency of defence policy depends not merely upon the political will of member States, but equally upon the Union's capacity to develop a competitive and integrated industrial base. Nevertheless, market fragmentation and the reluctance of member States to relinquish control over a strategic sector continue to represent major obstacles to deeper integration.

From a doctrinal perspective, the specificity of defence in the law of the European Union resides precisely in this combination of integration and sovereignty. As highlighted in the academic literature, defence can no longer be considered a 'taboo domain,' but has become a genuine field of Union law, characterised, however, by distinct mechanisms and principles compared to other European policies. This specificity derives both from the sensitive nature of the domain and from the necessity of reconciling national interests with the common objectives of the Union.

In conclusion, the CSDP takes shape as a domain situated at the intersection of European integration and member State sovereignty, evolving at an accelerated pace under the pressure of the geopolitical context. Whilst legal and institutional constraints persist, the existing framework provides sufficient instruments for consolidating the Union's role as a global security actor. The future of the CSDP depends, in essential measure, upon the capacity of member States to valorise these instruments, to overcome existing fragmentation, and to translate the Union's strategic ambitions into concrete operational outcomes.

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