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# Foundation of a European Army: Reality or Fiction? Implications of a Historical Analysis

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*To all of those who need a lifeboat in this sea of uncertainty.*

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## Introduction

“Everyone has the right to liberty and security of person.” – or so the European Convention on Human Rights (ECHR) postulates.<sup>1</sup>

In 1950s Rome – the time and the place where the ECHR was adopted – the codification of such a document was considered groundbreaking. People everywhere thought that a milestone was achieved. The war was gone. Suffering was over. The world could only go forward. But did it? In the contemporary world, although exceedingly guaranteed by law, security assured by appropriate defence has become a luxury many cannot afford. On top of that, compound issues that persist in those domains are no longer distant. The interstate war has returned to the European continent in a more advanced form than ever. As a consequence, defence is no longer constrained solely to the physical aspects and the issue is becoming increasingly multidimensional.

But where did we get it wrong? What happened between then and now? Did we fail, or can the damage be reversed? And what is the *right* way forward? In an attempt to reduce a complex puzzle, this paper indulges in the quest for the answers that would paint a brighter picture of the European security and defence future.

To generate such outcomes, Chapter One presents a broad historical overview of the European defence integration, starting from its founding years, and concluding with the Treaty of Lisbon. The three subsequent Chapters focus on a deeper analysis of specific turning points briefly described in the timeline of historical endeavours. While Chapter Two looks at the first-ever attempt at the European common defence – the European Defence Community (EDC), Chapter Three contrasts it with a long period of the European Political Co-operation (EPC) domination that marked security and defence as second-order priorities. Chapter Four is dedicated to the Common Foreign and Security Policy (CFSP) and the distinctiveness it fosters when compared to other provisions of the European Union (EU) legislation. Lastly, Chapter Five introduces the previously discussed notions with contemporary geopolitical challenges and draws attention to the most feasible course of action by reflecting on the historical lessons. The contribution ends with concluding remarks and implications for future research.

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<sup>1</sup> Article 5 of the ECHR.

## **1. Historical Development of the European Defence Integration: Path Leading to the Foundation of the European Union Common Security and Defence Policy**

### **1.1 The Founding Period**

“Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity.”

– R. Schuman.<sup>2</sup>

The well-known quote of one of the founding fathers of the EU proved to be an accurate prediction of the gradual pace at which European integration took – and is still taking – place. In his declaration, Robert Schuman outlined the unhurried approach that would mark the foundation of the EU and its progress in distinct integration fields. Naturally, the consolidation of the EU Common Security and Defence Policy was no exception to this rule.

However, identifying the rate at which the European project developed is not the greatest achievement of the above quote. What is even more significant is that the Schuman Declaration marked the starting point of a series of events that ultimately led to the foundation of the CSDP and EU as a whole.<sup>3</sup> A substantial number of “concrete achievements” indeed took place before “a de facto solidarity” was built, paving the way for a step-by-step introduction to defence integration.

#### **1.1.1 Treaty of Paris and the European Coal and Steel Community**

The story of the common defence began with the 1951 Treaty of Paris that created the European Coal and Steel Community (ECSC), as proposed by the previously mentioned Schuman Plan.<sup>4</sup> The creation of ECSC was primarily meant to help in the cross-border restoration of the infrastructure that was ruined during World War II (WWII).<sup>5</sup> The

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<sup>2</sup> R. Schuman, Schuman Declaration (1950).

<sup>3</sup> Schuman Declaration is also sometimes referred to as Schuman Plan. For the purposes of this paper, both terms will be used interchangeably.

<sup>4</sup> In reality, many different starting points could be used to define the beginning of the European defence integration, especially when it is considered separately from the foundation of the EU. With regard to the subject of my thesis, I chose to use the Treaty establishing the ECSC as a benchmark due to its recognition as the oldest founding agreement of the EU.

<sup>5</sup> According to the aforementioned Schuman Declaration: “The pooling of coal and steel production should immediately provide for the setting up of common foundations for economic development as a first step in the federation of Europe, and will change the destinies of those regions which have long been devoted to the manufacture of munitions of war, of which they have been the most constant victims.”

philosophy behind this idea was quite simple; there is no modern warfare without high coal and steel production – and there is no war between European nations if such production is supranational. Hence, the preservation of peace on the European continent was at the core of this newly founded organisation.<sup>6</sup>

The economic integration stemming from this industrial community proved successful for its original members; France, West Germany, Italy, Belgium, the Netherlands, and Luxembourg. Nonetheless, the combination of such favourable outcomes on the one hand, and global political insecurity provoked by the aftermath of WWII on the other, soon created an initiative to support further integration of Member States' defensive capabilities.

### **1.1.2 The Failure of the European Defence Community**

The first stage of European defence cooperation came with the proposal for the establishment of the European Defence Community (EDC). The idea was put forward by the General Commissioner of the French National Planning Board at the time, Jean Monnet and informally proposed by the French Prime Minister René Pleven. Monnet himself expressed that the inspiration for this initiative came from the rationale of the Schuman Plan, and the global political climate only supported his claim.

In the minds of many leaders, EDC was a logical answer to the despair brought about by WWII. With the start of the Korean War, the first military encounter between the Communist and Western blocks happened quickly.

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<sup>6</sup> M. Trybus, *European Union Law and Defence Integration*, (Hart Publishing, 2005), 11. From now on, I shall refer to this source as *Ibid*.



Figure 1.1. Plan of the distribution of the EDC divisions. Source: Time Magazine (1952).

The inclusion of German forces within European defence was an urgent matter that would guarantee that Germany would be on the European side once and for all. Thus, the EDC was originally supposed to operate within the already existing ECSC framework by supplying the organisation with a common army under a single supranational authority of the European Defence Council, in turn led by the European Defence Minister. The armed forces of the six ECSC Member States were to be joined into the European Defence Forces (EDF), allowing for German divisions to be created but used exclusively for defence.<sup>7</sup>

It did not take long for Monnet’s proposition to gain popularity among most Western countries. Soon, the initial design was slightly modified to account for the support of the United States (US) and the United Kingdom (UK). By 1952, the outcome seemed rather optimistic. The EDC Treaty was signed by the six Member States of the ECSC, with additional alignment and encouragement from the North Atlantic Treaty Organisation (NATO) and the UK.<sup>8</sup> Furthermore, a supplementary project was proposed – the one of a European Political Community (EPC) – creating a bridge between the ECSC and EDC.<sup>9</sup>

However, the initial hope was crushed in August 1954 when the French National Assembly rejected to ratify the Treaty. The reasons for French withdrawal came both, from the change in the international scene that reduced the fear of insecurity, as well as the internal fright of the loss of national sovereignty. From a global perspective, Stalin’s death and the end of the Korean War made the project less urgent than it was originally presented.<sup>10</sup> Additionally, the non-discrimination clause that was to operate between

<sup>7</sup> Article 2 (1) of the EDC Treaty states that “the objectives of the Community shall be exclusively defensive.”

<sup>8</sup> The UK did not want to be a Member State of the EDC due to its supranational character. Instead, the British government signed separate documents that aligned it with the EDC, including an Association Memorandum, an Agreement, a Declaration, and a Statement of Common Policy on Military Association.

<sup>9</sup> The EPC project failed together with the EDC. Therefore, it could be argued that the creation of EDC would have potentially made the political integration of the Union much easier and faster. I shall return to this point upon the discussion of the advantages of supranational defence in Chapter Two of this paper.

<sup>10</sup> *Ibid*, 43.



Member States induced fear over German rearmament and its influence within the EDC.<sup>11</sup> On the domestic side, Gaullists feared the loss of the French identity stemming from the Fourth Republic's indivisibility.<sup>12</sup>

Altogether, once the EDC Treaty was rejected by its very initiator, the ambition of other signatories declined. The EDC was deemed unrealistic, and the Treaty has never gone into effect. Its legacy will ensure that the supranationalism of the project remains the most contested aspect of the common defence to this day.<sup>13</sup>

## 1.2 Informal Developments

The defeat in the fields of defence and politics did not stop the ECSC Member States from proceeding with their economic integration. Three years after the misfired EDC Treaty, the six Member States signed a separate agreement in Rome. The 1957 Treaty of Rome established two distinct supranational organisations – the European Economic Community (EEC) and the European Atomic Energy Community (Euratom) – in most parts separate from the ECSC itself.<sup>14</sup>

As the name suggests, the main purpose of Euratom was to create an economic market specialising in nuclear power that would facilitate easier distribution of nuclear energy between the Member States. On the contrary, the EEC pursued a much broader aim – the encouragement of overall economic integration among Member States. Therefore, the EEC efforts eventually led to the establishment of the European common market as we know it today; including regimes of free movement of goods, persons, services and capital, competition law, and its internal and external policies.

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<sup>11</sup> *Ibid*, 27. For further information on the principle of non-discrimination, refer to Article 6 of the EDC Treaty.

<sup>12</sup> Gaullism is a French political ideology rooted in the thought of WWII leader Charles de Gaulle. It is based on the assertion of national sovereignty that yields French unity and incorporates patriotic foreign policy. To this end, it can be seen as opposed to the supranational idea of the EDC that would require its Member States to give up control of their national security, an essential part of sovereignty. Supporting the existence of a supranational defence organisation that is constantly at the disposal of NATO would go completely contrary to de Gaulle's beliefs against interdependence.

<sup>13</sup> *Ibid*, 23.

<sup>14</sup> EEC and Euratom had their respective Councils and Commissions but shared the Assembly and the Court with the ECSC. Although supranational, these two organisations delegated more powers to the Council and less to the Commission. This made them also stronger in the intergovernmental aspects when compared to the EDC and EPC. For more information, see *Ibid*, 47.

### 1.2.1 The Fouchet Plan(s)

Soon enough, it became clear that the unanswered political aspects following EDC's failure were carefully avoided in the EEC Treaty.<sup>15</sup> At that point, a new idea was born. After the rejection of the EDC Treaty, Charles de Gaulle, then the President of the French Fifth Republic, was not *fully* opposed to European defence integration. From the beginning of his presidential term, he understood that broader foreign policy and military cooperation might serve as a foundation for French greatness on the international scene – but only if it is conducted according to the French terms.<sup>16</sup>

Exactly because of the problems associated with the unsuccessful supranational design of the EDC, de Gaulle turned his interest towards an intergovernmental model of defence. He was aiming at an arrangement that would function separately, but also in parallel with the ECSC, EEC, and Euratom. To this end, the organisation was supposed to respect the previously established Treaties of Paris and Rome while still guaranteeing the primacy of the sovereign nation-state as an irrefutable clause in its design.<sup>17</sup>

To share his idea, de Gaulle organised a summit of EEC Member States' heads of government in February 1961. The meeting was to serve as a precedent for many more of such sort, displaying the project's intergovernmental core. Although there was no unanimous agreement between the newly founded Intergovernmental Committee on Political Union, its members conceded to continuously review different incentives that were going in the direction of the French goal.<sup>18</sup>

The insecurities of the Member States were two-faced. From the institutional point of view, de Gaulle's initiative was completely contrary to the ideas put forward by Schuman, Monnet, and Plevin. According to the new idea, the political independence of the supranational European Commission would be compromised, possibly creating a power

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<sup>15</sup> The recent failure of the EDC Treaty made it difficult to directly address defence matters within the EEC without scaring the Member States off. Therefore, the authors of the EEC Treaty referred to defence and security measures of economic integration as “exemptions” and strictly wrote about their commercial aspects. In such a way, the doubts over the national interests of Member States were balanced with the benefits of the newly found common market. For more information see *Ibid*, 47.

<sup>16</sup> A. Teasdale, *The Fouchet Plan: De Gaulle's Intergovernmental Design for Europe*. (LEQS, 2016), 7. From now on, I shall refer to this source as *Ibid*.

<sup>17</sup> *Ibid*, 16.

<sup>18</sup> *Ibid*, 15.

centre within the organisation.<sup>19</sup> In turn, without much chance of further supranational developments, an intergovernmental approach could stimulate resistance to the alternation of the current pattern of European integration and encourage stagnation. On the flip side, foreign policy concerns came from the confusion over de Gaulle's true intentions. There was no doubt that greater coordination within Europe would make it a stronger actor in the global arena. However, were French terms the right way to do so?<sup>20</sup>

Having these considerations in mind, the Committee continued to meet between March 1961 and April 1962 under the chairmanship of Christian Fouchet, the French ambassador to Denmark at the time and a former Gaullist deputy.

The First Fouchet Plan amounted to a 1961 draft Treaty for the establishment of a political union that would adopt a common foreign policy and a common defence policy. The response to this document was mixed; the Netherlands fully opposed it, West Germany, Italy and Luxembourg asked for more guarantees considering the NATO and EEC integrity, while Belgium moved from neutrality to opposition. In addition, the Dutch and Belgians demanded direct inclusion of the UK in the Plan.<sup>21</sup>

By the end of the year, the negotiations reached a standstill. It seemed like the question of the institutional structure of the union and British involvement was impossible to solve. Still, France was not giving up. A revised version of the Plan – the Second Fouchet Plan – was delivered by mid-January 1962. However, to everyone's surprise, the second draft showed no intention of further compromise. Instead of expanding the basis for the agreement between the opposing stances, the new document made the original French position even clearer; the union was to be fully intergovernmental, functioning completely separately from NATO and the US.<sup>22</sup>

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<sup>19</sup> This explains why there was initially more resistance from the small states within Benelux. With a power centre comprised of more powerful countries, West Germany and Italy had less to lose. For more information, see *Ibid*, 17.

<sup>20</sup> *Ibid*, 19.

<sup>21</sup> *Ibid*, 30-31.

<sup>22</sup> There were five major amendments within the Second Fouchet Plan. First, there was a proposal for the creation of a Committee of Ministers that could over time override the already existing ECSC Council. Second, by including economics as one of the cooperation areas, the document directly endangered the central policy of the supranational EEC. Third, defence policy was no longer entitled to be run "in cooperation with other free nations"; therefore, there were no more indirect references to NATO and the US. Fourth, the opportunities for consultation with the European Parliament were reduced. Last, the organisation was to continue operating as a separate pillar to the ECSC, EEC, and Euratom even after the scheduled three-year review. For more information, see *Ibid*, 36.

Upon hearing these changes, even the three countries that originally encouraged the First Fouchet Plan withdrew their support. As a response, Italians initiated the preparation of a counterproposal that directly contradicted French ideas. The main difference was the establishment of a common defence policy whose framework was supposed to strengthen, rather than break the Atlantic Alliance.<sup>23</sup> As it could be assumed, the counteroffer of the five Member States resulted in France's unsuccessful attempt to negotiate bilaterally and its complete diplomatic conquest.

On one hand, the short-term consequence of the French two-step failure was de Gaulle's decision to veto the British accession to the Community (twice).<sup>24</sup> He continued to openly express strong views on European integration and pursued a bilateral strengthening of the relationship with West Germany that led to the 1963 Franco-German Élysée Treaty.<sup>25</sup> On the other hand, the long-term repercussions of the Fouchet Plans stayed deeply engraved in the Community. The tension between intergovernmental and supranational ambitions for European integration did not diminish.<sup>26</sup> It took seven years for the process of European political integration to be resumed, twelve years to codify foreign policy in the Treaties, and thirty years for such policy to become a separate intergovernmental pillar like de Gaulle envisioned it to be.

### **1.2.2 European Political Co-operation**

Three years after the failure of the Fouchet Plan, the representatives of six Member States signed the so-called Merger Treaty.<sup>27</sup> The 1965 Treaty unified the executive institutions of ECSC, EEC and Euratom. The Single Commission of the European Communities and the Single Council of the European Communities were formed, thereby coining the term that from then on jointly resembled the three organisations.<sup>28</sup>

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<sup>23</sup> *Ibid*, 40.

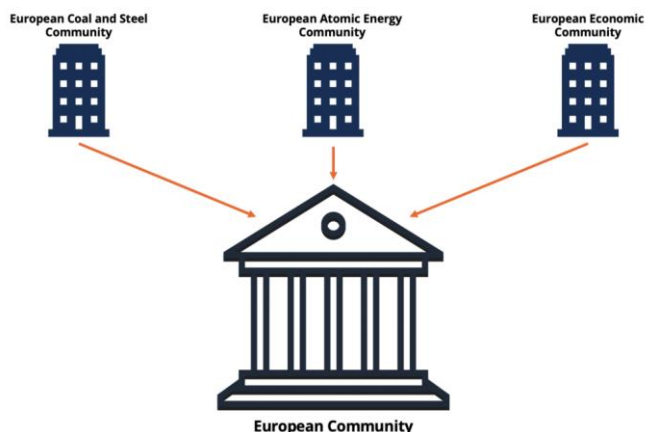
<sup>24</sup> The first time was in 1963, and the second time was in 1967. For more information, see *Ibid*, 48.

<sup>25</sup> Élysée Treaty was a friendship treaty signed by France and West Germany, aimed at ending the centuries-long Franco-German enmity. For more information, see *Ibid*, 51.

<sup>26</sup> *Ibid*, 53.

<sup>27</sup> The 1965 Merger Treaty is also referred to as the Treaty of Brussels. Later, it was repealed through Article 9 of the 1997 Amsterdam Treaty.

<sup>28</sup> M. Trybus, *European Union Law and Defence Integration*, (Hart Publishing, 2005), 48.



This unification into a singular organisation of European Communities helped the three branches to avoid duplication of the possibly overlapping policies, showing the importance of cooperation.

Figure 1.2. European Community. The predecessor of the European Union as an association created to unite Europe. Source: Corporate Finance Institute (CFI).

The simplification of the institutional framework incentivised Member States to think about deeper coordination of their policies – even if that meant attempting to adopt a common foreign policy once again. Thus, European Political Co-operation (EPC) arose as a project that will continue developing over the next three decades.<sup>29</sup>

The first formalised step of EPC came with the establishment of the Davignon System, as suggested by the 1970 Luxembourg Report.<sup>30</sup> Although operating within the monitoring system of the EC, an intergovernmental Political Committee was established independently, showing that foreign policy matters were to be dealt with separately from the other supranational integration areas.<sup>31</sup> In this way, France managed to avoid engagement with the supranational Community methods while other Member States ensured that EPC would not endanger EC institutions. Finally, this was an arrangement that suited everyone.

Three years later, the EC enlarged once Britain, Ireland and Denmark decided to take part in the process of European integration.<sup>32</sup> With the first EC enlargement, the Copenhagen Report and a Declaration on a European Identity that followed the same year shed light on a newly found paradox. Even though the Member States wanted to keep the systems

<sup>29</sup> Although this initiative was substantially about foreign policy and not defence per se, its legacy makes it relevant in understanding the steps that will follow during the long journey of European defence integration.

<sup>30</sup> The System was aimed at introducing the vague objectives, timings of ministerial meetings, matters for consultation and relationship with the EC. For more information, see S. Keukeleire and T. Delreux, *The Foreign Policy of the European Union*, (Palgrave Macmillan, 2014), 43.

<sup>31</sup> M. Trybus, *European Union Law and Defence Integration*, (Hart Publishing, 2005), 53.

<sup>32</sup> At this point, as de Gaulle already resigned from his presidential position; France no longer held a veto over the British accession, enabling the UK to become one of the Member States.

of foreign policy and economic integration separate, they undoubtedly had implications for one another; and as long as their frameworks were closely tied, the contradiction between the systems remained a possibility.<sup>33</sup>

Still, the enlargement trend continued. On the 1<sup>st</sup> of January 1981, Greece became the tenth Member State of the EC. Besides suggesting the use of EC instruments to promote EPC, the London Report of the same year included “a flexible and pragmatic approach” to the political and economic aspects of defence.<sup>34</sup> Accordingly, defence was mentioned within the EPC framework for the first time.

One decade into its operation, EPC was seen as an effective project from the outside. Besides external objectives, it also actively worked on ensuring the attainment of integration, interrelation, and identity objectives.<sup>35</sup> Despite occasional disagreements, EC Member States were progressively perceived as a collective actor pursuing a single foreign policy internationally. Yet, although such a view increased the organisation's legitimacy, the EPC reports remained baseless in the formal sense. Until no legally binding document ensured the compliance of Member States to the EPC framework, its success rested solely on their political will.

The situation took a turn in 1986. With the preparation for Portugal and Spain's anticipated EC membership, the Member States decided to speed up the process of the common market creation. It did not take long to realise that such an amendment would be the most effective if the 1957 founding Treaty of Rome was revised to account for a deadline for the common market establishment. And just like that, the Single European Act (SEA) was born, and the target was set to be reached by 1992.

Although the SEA was naturally mostly focused on the economic aspects and strengthened Communities' democratic power by increasing the influence of the Parliament, it also allowed for deeper integration by codifying the EPC.<sup>36</sup> Now the

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<sup>33</sup> M. Trybus, *European Union Law and Defence Integration*, (Hart Publishing, 2005), 54.

<sup>34</sup> Article 11 of the London Report on European Political Cooperation (1981).

<sup>35</sup> While external objectives exerted influence over the outside environment, integration objectives ensured the continuous character of European integration, interrelation objectives made sure that Member States constantly cooperate, consult, and share relevant information, and identity objectives allowed Member States to act as a unified front during international conferences. For more information, see S. Keukeleire and T. Delreux, *The Foreign Policy of the European Union*, (Palgrave Macmillan, 2014), 45.

<sup>36</sup> M. Trybus, *European Union Law and Defence Integration*, (Hart Publishing, 2005), 55.

missing piece was there – a legally binding instrument that explicitly mentioned security within EC’s primary law for the first time since its foundation.<sup>37</sup>

Nonetheless, it is important to note that the EPC’s nature remained intragovernmental and was therefore placed outside of the EC framework. Yet, when it came to external policies, this in(ter)dependence was governed by the consistency requirement.<sup>38</sup> Furthermore, the common defence was not openly mentioned within the SEA for a reason. At a time when an increasingly fast arms race between the US and the Soviet Union was reaching its peak, openly declaring defence autonomy would not be a safe option for the Community that relied on NATO’s defensive capabilities.<sup>39</sup> Ultimately, even though this legally binding EPC instrument aimed simply to “jointly formulate and implement a European foreign policy” and did not specifically mention defence, it proved to be a turning point in the formulation of the Common Foreign and Security Policy that would come only a few years later.<sup>40</sup>

### **1.3 The Fundamental Change**

The year 1992 was big for the Community. The communist regimes fell, Germany was reunified, and military conflicts in the Gulf and Yugoslavia did not seem to be ending; once again, the geopolitical situation was an incentive for a breakthrough.<sup>41</sup> The Member States have learned the lessons from their past failed attempts and were finally ready to take a remarkable step forward by signing the Maastricht Treaty. This document, also known as the Treaty on European Union (TEU) continued the momentum of successful integration by introducing the idea of European citizenship, the potential European Monetary Union, and the slow formation of a political union.

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<sup>37</sup> The codified provisions were located under Title III (Treaty Provisions on European Co-operation in the Sphere of Foreign Policy), most explicitly in Article 30 of the SEA.

<sup>38</sup> In other words, the external politics of EC and EPC had to be coherent. The procedure that ensures such consistency is outlined in Article 30(5) of the SEA.

<sup>39</sup> M. Trybus, *European Union Law and Defence Integration*, (Hart Publishing, 2005), 56.

<sup>40</sup> The aims of Title III are outlined in the Article 30(1) SEA.

<sup>41</sup> S. Keukeleire and T. Delreux, *The Foreign Policy of the European Union*, (Palgrave Macmillan, 2014), 46.

### 1.3.1 The Common Foreign and Security Policy

Most notably, the Treaty established a three-pillar structure of what was about to become known as the European Union (EU).

The first two pillars were organised in a way that would allow them to balance one another; the first pillar was comprised of the supranational EC (old ECSC, EEC and Euratom) that handled economic, social, and environmental policies, while the second pillar corresponded to the intragovernmental Common Foreign and Security Policy (CFSP). The third pillar was reserved for Justice and Home Affairs (JHA) which dealt with criminal activities in the Union.<sup>42</sup>



Figure 1.3. The three pillars of the EU. Source: Professor Rosa Greaves. <https://www.uio.no/studier/emner/jus/jus/JUR5440/v10/undervisningsmateriale/IntrodSEM-1.pdf>.

The newly developed CFSP came as a natural extension of the previous EPC development under the SEA, putting defence integration back on the European agenda. However, this time, it was explicitly mentioned in primary law.<sup>43</sup>

The CFSP objectives were listed in Article J.1 (4) of the Treaty and broadly included safeguarding of common values, strengthening of the Union's *and* Member States' security, preservation of peace and international security, promotion of international cooperation, and consolidation of democracy. To this end, it is clear that none of the objectives asserted any hostility even though they were all related to security. Rather, the only possibility of using *self-defensive* force was conditioned by Article 51 of the United

<sup>42</sup> With the 1997 Treaty of Amsterdam, the third pillar was renamed Police and Judicial Co-operation in Criminal Matters (PJCCM).

<sup>43</sup> For further information, see Article J.4 of the Treaty of Maastricht.



Nations (UN) Charter and needed to be authorised by the UN Security Council (UNSC).<sup>44</sup> Furthermore, the list of matters that could be discussed within this framework was not exhaustive. Yet, although the possible areas were phrased in broad terms, the SEA legacy made sure that the emphasis was still put on consultation, rather than collective action.<sup>45</sup>

Nevertheless, “the eventual framing of a common defence policy, which might in time lead to a common defence” was openly mentioned.<sup>46</sup> This phrasing was in no way coincidental; it accurately reflected the issues surrounding the military dimension of security. On the one hand, by acknowledging the possibility of common defence (policy), countries such as France and Germany who advocated for its implementation were given hope. On the other hand, the use of expressions such as “eventual framing” or “might in time lead to” gave reassurance to pro-NATO and neutral Member States who were not ready to take that step and jeopardise the transatlantic relationship.<sup>47</sup>

After the 1995 accession of Austria, Finland and Sweden, the TEU was amended through the Treaty of Amsterdam. The 1997 Treaty reformed EU institutions to allow for a more transparent decision-making process and therefore increased their powers. It stopped addressing “the Union and its Member States” like the Maastricht Treaty did, and instead merely spoke of “the Union”, thereby displaying more sense of community.<sup>48</sup> When it comes to CFSP, the main change was the introduction of the High Representative for the CFSP. Although it might not sound particularly inventive at first, this modification was rather fundamental for the evolution of CFSP. Finally, the EU foreign policy had its frontman who increased the visibility and efficiency of the Union’s intentions.<sup>49</sup>

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<sup>44</sup> M. Trybus, *European Union Law and Defence Integration*, (Hart Publishing, 2005), 63.

<sup>45</sup> According to Article J.1, “Member States shall inform and consult one another within the Council on any matter of foreign and security policy.”

<sup>46</sup> Article J.4 (1) of the Treaty of Maastricht.

<sup>47</sup> S. Keukeleire and T. Delreux, *The Foreign Policy of the European Union*, (Palgrave Macmillan, 2014), 49.

<sup>48</sup> The original wording from the Treaty of Maastricht was adopted at the British request since the UK feared that CFSP implementation would make the Union go beyond originally intended intergovernmental cooperation. The fact that such wording was dropped with the Treaty of Amsterdam showed that Member States were less reluctant to account for the possibility of a more supranational Union. For more information, see M. Trybus, *European Union Law and Defence Integration*, (Hart Publishing, 2005), 62.

<sup>49</sup> S. Keukeleire and T. Delreux, *The Foreign Policy of the European Union*, (Palgrave Macmillan, 2014), 51.

### 1.3.2 The Saint-Malo Declaration

Half a decade into CFSP operation, its great ambitions were repeatedly put to test. Unfortunately, the coordination of Member States' foreign policies was not enough to stop and prevent regional conflicts like it intended to. The policy failed to show its forecasted conventional character during the Yugoslavian crisis and became even less appealing to the states that originally opposed its inclusion in the TEU. In Western eyes, the failure to provide any sufficient humanitarian help was seen as shameful both for the EU, and the international community as a whole.<sup>50</sup>

As a response, then-French President Jacques Chirac and British Prime Minister Tony Blair met in December 1998 and signed the Saint-Malo Declaration. This Joint Declaration on European Defence openly criticised the intergovernmental nature of CFSP by expressing the need for the Union's "autonomous action backed by credible military forces [...] to respond to international crises."<sup>51</sup> Therefore, for the first time since the EDC failure, the governments of the two Member States openly agreed that they would be ready to pursue some sort of military force establishment. Moreover, they indicated that such development should be set up independently of the NATO framework:

"In order for the European Union to take decisions and approve military action where the Alliance as a whole is not engaged, [...] the European Union will also need to have recourse to suitable military means (European capabilities pre-designated within NATO's European pillar or national or multinational European means outside the NATO framework)."<sup>52</sup>

Yet, another important takeaway from the above paragraph is that European autonomous armed forces would intervene only where NATO is not engaged "as a whole", and exclusively within the preestablished framework.<sup>53</sup>

The effectiveness of the Franco-British initiative was seen only a few months later when the Cologne European Council made the establishment of the European Security and Defence Policy (ESDP) an EU objective.<sup>54</sup> In such a way, the proposal of two Member

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<sup>50</sup> S. Keukeleire and T. Delreux, *The Foreign Policy of the European Union*, (Palgrave Macmillan, 2014), 49-50.

<sup>51</sup> For details, see paragraph 2 of the Saint-Malo Declaration.

<sup>52</sup> Paragraph 3 of the Saint-Malo Declaration.

<sup>53</sup> The EU-NATO relationship is guided by the so-called Berlin Plus Agreement; a series of seven comprehensive documents aimed at assuring the strategic partnership of the two organisations.

<sup>54</sup> M. Trybus, *European Union Law and Defence Integration*, (Hart Publishing, 2005), 96.

States also became the official policy goal of the other thirteen. On top of that, half a year later, Member States made a series of commitments during the Helsinki European Council. Firstly, the so-called Helsinki Headline Goal confirmed that cooperation in EU-led operations was to be conducted voluntarily. Secondly, and more concretely, by 2003, the EU was expected to be able to deploy between 50,000 and 60,000 troops within two months as a part of the European Rapid Reaction Force. Thirdly, a standing Political and Security Committee and a Military Committee were to be established within the Council to help in fulfilling European defence ambitions. Fourthly, this framework was to be in line with the UN Charter and fully transparent to the NATO Alliance. Lastly, a parallel non-military crisis management mechanism was to be put in place.<sup>55</sup>

With 9/11, terrorist attacks across Europe awakened, and proliferation fears escalated for the first time since the end of the Cold War. Soon it became apparent that the range of issues at stake was expanding. The wars in Iraq and Afghanistan only exacerbated the situation. Member States' opinions, military capabilities and (in)action preferences varied. The tension between transatlantic solidarity and European integration did not diminish.

Divisions coming from the outside and inside pushed the EU to reframe its foreign policy objectives and priorities. By addressing each level of the threats individually, the 2003 European Security Strategy contributed to overcoming the new security challenges and lowered mutual distrust. It directly addressed geopolitical risks, promoted the establishment of a safe EU neighbourhood, and encouraged the formation of a cooperative and effective multilateral international order.<sup>56</sup>

Having all the aforementioned in mind, it does not come as a surprise that ESDP substantially changed the nature of CFSP. Foreign policy was no longer dealt with in a passive diplomatic way. Instead, it became increasingly action-oriented and pragmatic.<sup>57</sup>

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<sup>55</sup> Accordingly, the 2000 Fiera Headline Goal added the civilian dimension of 5,000 police officers for international conflict prevention to the Helsinki Headline Goal. For more information, see M. Trybus, *European Union Law and Defence Integration*, (Hart Publishing, 2005), 97-99.

<sup>56</sup> S. Keukeleire and T. Delreux, *The Foreign Policy of the European Union*, (Palgrave Macmillan, 2014), 53-55.

<sup>57</sup> S. Keukeleire and T. Delreux, *The Foreign Policy of the European Union*, (Palgrave Macmillan, 2014), 53.

National resources were actively used in the pursuit of a more secure Union. The CFSP finally seemed ready to handle serious foreign policy issues.

### 1.3.3 Treaty of Nice and Eastern Enlargement

The changing geopolitical environment was not the only major obstacle that the Union's foreign policy faced. It was the beginning of the 21<sup>st</sup> century and the EU was looking at the largest single enlargement it has experienced – the accession of ten Central and Eastern European countries, including the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia.



Figure 1.4. Map of the EU 2004 enlargement. The yellow area indicates the countries that were already Member States of the EU, the blue area shows ten new Member States, and the pink area refers to the countries that were in the negotiation stage with the EU at the time. Source: Manuela Boatcă (2017).

Still, what was remarkable about this new addition was not only its size; seven out of ten new Member States were a part of the Soviet Eastern Bloc during the Cold War. To this end, much like the attempted inclusion of Germany in the EDC framework, the 2004 enlargement was an effort to liberalise these countries and not let them fall under communist influence again.

Naturally, with the inclusion of more diverse countries in the Community, the range of issues and discrepancies to be addressed grew.<sup>58</sup> Suddenly, the regions that seemed distant from the EU became unexpectedly close – Eastern issues became European issues. Therefore, the 2001 Treaty of Nice was worded as an attempt to amend the founding Treaties once again and reform the institutions in a way which would allow for a smooth and efficient transition of new Member States.

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<sup>58</sup> S. Keukeleire and T. Delreux, *The Foreign Policy of the European Union*, (Palgrave Macmillan, 2014), 56.

As a response, the Treaty included enhanced cooperation provisions in the TEU, thereby increasing the flexibility of the CFSP.<sup>59</sup> Moreover, the Union launched the European Neighbourhood Policy aimed at strengthening the relationship between the EU, former Soviet countries, and the Mediterranean states. Upon the ratification of the Treaty of Nice in 2003, the first three ESDP missions were set up.<sup>60</sup> Since these three situations implied a lower degree of danger, and the EU faced a military capabilities gap and short-term budget allocation obstacles, the missions were limited in scope. Hence, the ESDP finally had several opportunities to test its abilities through hands-on learning.<sup>61</sup>

### **1.3.4 The Constitution for Europe and Treaty of Lisbon**

At the end of the year, European integration seemed like it was about to reach its peak. After their meetings at the Convention on the Future of Europe, the Member States adopted a draft Treaty establishing a Constitution for Europe. The possibilities of a European federation never seemed more approachable. The complete cohesion and effectiveness of the EU's external action were guaranteed. Still, this ambition proved to be short-lived. The supranational and federal character of the project made some Member States uncomfortable. Thus, although approved by the European Parliament, the Treaty was rejected by the French and Dutch national referenda.<sup>62</sup> Without the possibility of having the ratification of all Member States, the Constitutional Treaty failed.

However, the European Council was not ready to fully give up and began amending the constitutional text. After the review period, the final amending text came into existence, and the 2007 Lisbon Treaty successfully replaced the Constitution. The aims of the two texts were rather similar – more democratic powers within the Union, better mechanisms

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<sup>59</sup> These provisions allowed a group of Member States to come together and deepen integration between them once there was no EU-wide consensus regarding a specific topic. Once the agreement is reached between the smaller group of Member States, others can be invited to join the initiative on a voluntary basis. For further details, see Article 27a-27e of the Treaty of Nice and M. Trybus, *European Union Law and Defence Integration*, (Hart Publishing, 2005), 112-114.

<sup>60</sup> First, the EU Policy Mission took over from the UN International Police Task Force and started the stabilisation process in Bosnia and Herzegovina. Second, the Concordia Mission was launched in Macedonia, continuing the work that NATO's Operation Allied Harmony had begun. Third, the Artemis Mission was initiated in the Democratic Republic of Congo upon the request of the UN Secretary-General. For more information, see M. Trybus, *European Union Law and Defence Integration*, (Hart Publishing, 2005), 115-116.

<sup>61</sup> M. Trybus, *European Union Law and Defence Integration*, (Hart Publishing, 2005), 116-118.

<sup>62</sup> S. Keukeleire and T. Delreux, *The Foreign Policy of the European Union*, (Palgrave Macmillan, 2014), 57.

against global problems, higher participation of the EU citizens and a more coherent and unified voice within the Union – yet, their approaches were radically different.

Firstly, the Treaty of Lisbon only amended the founding Treaties (the 1957 Treaty of Rome and the 1992 Treaty of Maastricht) rather than replacing them as the Constitutional Treaty intended. Secondly, instead of using constitutional words that made the Member States fear losing their sovereignty, the Lisbon Treaty clarified which powers belong to the EU, the Member States, and which ones are shared.<sup>63</sup>

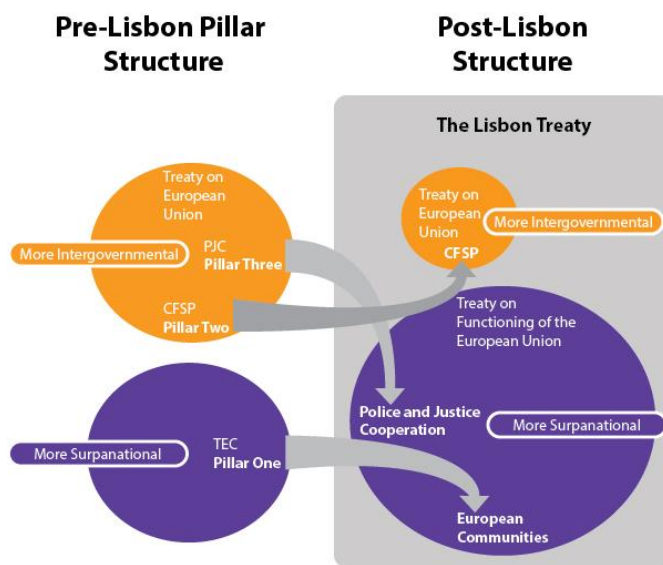


Figure 1.5. The Lisbon Treaty. Restructuring of the foundational treaties. Source: European Studies Hub.

Thirdly, the 2007 Treaty brought about some big changes in the foreign policy field. The biggest innovation was the abolishment of the EU’s well-known pillar structure.<sup>64</sup> The outcome of the new structure was two-fold. On the one hand, all aspects of foreign policy could finally be found under the same treaty title – Title V TEU.

On the other hand, it differentiated CFSP from other regular competences by ensuring its intragovernmental character.<sup>65</sup>

Moreover, the Lisbon Treaty significantly expanded the role of the High Representative by also making them the Vice-President of the Commission. Such a move was aimed at ensuring coherence of the EU’s foreign policy, especially when it comes to the

<sup>63</sup> S. Keukeleire and T. Delreux, *The Foreign Policy of the European Union*, (Palgrave Macmillan, 2014), 57-58.

<sup>64</sup> The previous three-pillar structure was shifted into a structure of two treaties – the TEU and the Treaty on the Functioning of the EU (TFEU). The TFEU was composed of the old TEC provisions with the addition of the third pillar (PJCCM) to it. Figure 1.6 shows the shift graphically.

<sup>65</sup> For further details, see Article 2 (4) TFEU and Article 21 (1) TEU.

international responsibilities of the Commission.<sup>66</sup> Finally, the ESDP was formalised in the Treaties and placed within the CFSP. Its name was changed to the Common Security and Defence Policy (CSDP).

Ultimately, it took half a century of diplomatic efforts, failed integration attempts, heated disagreements, and well-thought compromises for CSDP to take its contemporary form. But what does the future hold for it? Is further integration possible? What sort of effect would it have on the EU-NATO relationship? And what role does the current geopolitical scene play in this scenario?

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<sup>66</sup> The Treaty also created the European External Action Service to assist the High Representative. For more information, see S. Keukeleire and T. Delreux, *The Foreign Policy of the European Union*, (Palgrave Macmillan, 2014), 57.

## **2. The Odyssey of the European Defence Community: A Closer Look at the Most Ambitious European Defence Integration Project to Date**

### **2.1 The Rise**

Upon reviewing the long-lasting process of European defence integration, it might come as a surprise that the most ambitious project – and the one that marked the future of European defence – came at the very beginning of this historical path. According to the common-sense logic of the Union’s founding fathers, deeper integration in other spheres should have motivated a more progressive approach towards defence. After the abolishment of the pillar structure and the systematisation of CSDP that came with the Treaty of Lisbon, one would expect that prospects of the uniform European army would be higher than in the aftermath of WWII. However, even by becoming more and more integrated when it comes to the other fields, the EU has never again come up with an idea similar to one of the EDC. Still, the question remains; what were the factors that made this project so attractive to begin with?

#### **2.1.1 Supranationalism**

As already discussed in the historical overview, European integration turned out to be an immediate consequence of WWII. At this time, European leaders were seeking a new way of handling the relations between their states in a manner that would allow them to overcome friction and hostility induced by the war. To this end, the Schuman Declaration introduced an alternative to the intragovernmental approach that dominated the scene of international relations thus far – the idea of supranationalism.

Unlike an intergovernmental organisation that does not ask states to transfer decision-making sovereignty to it, this supranational community was to be led by institutions independent of Member States, having the power to make binding decisions that could influence their behaviour. Accordingly, the supranational nature of the EDC was based on Schuman’s model of ECSC and explicitly expressed in Article 1 of the EDC Treaty.<sup>67</sup>

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<sup>67</sup> Article 1 of the EDC Treaty introduced the concepts of common institutions, common armed forces, and a common budget for the EDC. For further information, see M. Trybus and N. D White, *European Security Law*, (Oxford University Press, 2007), 17.



To compensate for the transfer of sovereignty, the supranational nature of the EDC offered a handful of benefits to its Member States. As previously mentioned, one of the fears that Member States encountered in the 1950s was the question of German rearmament.<sup>68</sup> If the EDC was envisioned as an intergovernmental organisation, it would require the re-establishment of the German national armed forces. Alternatively, setting up a supranational organisation that would navigate the use of a joint European army would ensure a German contribution without the need for national rearmament.<sup>69</sup>

However, there was another reason that made the supranational character of the Community more appealing to European states. The preamble of the EDC Treaty referred to “the necessary rapidity and effectiveness as the most appropriate means” of reaching the Community’s goal.<sup>70</sup> In simple terms, the authors of the Treaty recognised that an organisation that can make binding decisions without consulting each state individually can achieve cohesion much more easily than institutions in an intergovernmental setting. In turn, such a supranational organisation would have to bear the responsibility for the national security of its Member States.<sup>71</sup> This military cohesion is what resembles the true added value of the EDC, enabling it to act rapidly in situations of crisis. Knowing that deterrence was the main objective of the Treaty due to the post-war Soviet threat, the States could not afford to compromise the promised efficiency.<sup>72</sup> Thus, the safety of the Member States was – at least in principle – supposed to be enhanced through the institutions’ supranationalism.<sup>73</sup>

### 2.1.2 Defensive Character

At this point, it could be useful to differentiate between *security* policy and *defence* policy. On the one hand, security policy provides security services by maintaining peace, as is

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<sup>68</sup> H. G. L., *The European Defence Community*, (The World Today, 1952), 237.

<sup>69</sup> M. Trybus and N. D White, *European Security Law*, (Oxford University Press, 2007), 28. From now on, I will be referring to this source as *Ibid*.

<sup>70</sup> Paragraph 3 of the preamble to the EDC Treaty reads: “Considering that as complete an integration as possible, compatible with military requirements, of the human and material elements gathered in their Defence Forces within a supranational European organisation is the most appropriate means of reaching this goal with all the necessary rapidity and effectiveness.”

<sup>71</sup> This point will be elaborated further later on in this Chapter.

<sup>72</sup> *Ibid*, 27.

<sup>73</sup> *Ibid*, 33-34.

the case with humanitarian peacekeeping missions. On the other hand, defence policy is used in a much narrower sense – to resist an offensive.

As stated in Article 2 of the EDC Treaty, the objectives of the Community were to be “exclusively defensive.”<sup>74</sup> Therefore, the Treaty did not call for the establishment of a security policy that would supplement the one of the UN.<sup>75</sup> The reason for such a decision was two-fold. Firstly, as previously stated, the primary objective of the EDC was defence against the Soviet Union. In this view, security beyond defence was not the biggest concern of the Member States. Secondly, the six Member States were positioned quite differently when it came to the UN. While France had a permanent seat and veto power in the UNSC, Italy and Benelux did not have the same privileges, and Germany was not even a member of the UN at the time. Hence, their responsibilities towards the UN would have been incompatible.<sup>76</sup>

While looking at the same article, one of the most significant provisions would be the mutual defence clause and its “automatic action commitment”:<sup>77</sup>

“Any armed aggression directed against any one of the Member States in Europe or against the European Defence Forces shall be considered as an attack directed against all of the Member States. The Member States and the European Defence Forces shall furnish to the State or Forces thus attacked all military and other aid and assistance in their power.”<sup>78</sup>

There are a few points worth mentioning here. First, as previously stated, the sovereignty that the Member States have transferred to the EDC was supposed to imply the Community’s responsibility over the military security of the States. Second, the response to an armed attack against a certain Member State was to be automatic. This aspect was deemed possible as the supranational nature of the organisation was envisaged to make such reactions more efficient. Lastly, the automatic action was to happen “without reservations” since the remaining Member States were expected to provide the attacked

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<sup>74</sup> Article 2 (1) of the EDC Treaty reads: “The objectives of the Community shall be exclusively defensive.”

<sup>75</sup> According to Article 14 of the EDC Treaty, the Member States would have had an opportunity to participate in the UN missions if they expressed a will to do so. However, there were no obligations regarding such conduct. For further information, see *Ibid*, 30.

<sup>76</sup> *Ibid*, 30.

<sup>77</sup> Quoting E, Fursdon. See *Ibid*, 33.

<sup>78</sup> Article 2 (3) of the EDC Treaty. The only limitation to the automatic action commitment was the overseas territories of the Member States that were not protected under Article 2 of the EDC Treaty. For further information, see *Ibid*, 13.

State with all the resources in their power (both military and “other”).<sup>79</sup> Having all the above in mind, the actions of the EDC would have been generally limited to the common defence.<sup>80</sup>

### **2.1.3 Non-discrimination**

There was another aspect that made the EDC idea so powerful; that is, the non-discrimination clause stated in Article 6 of the Treaty.<sup>81</sup> According to this provision, all of the Member States were to be treated equally under the EDC Treaty regardless of their size, resources, or standing. Naturally, this clause was of the greatest importance to Germany – the country that was continuously scrutinised for its conduct during the war. It was a perfect opportunity for the Federation to lose the status of a second-class state and integrate into the Community.<sup>82</sup>

The significance of the principle of non-discrimination can be understood when looking at other EU treaties; since its development, it has become “a basic rule of European integration.”<sup>83</sup> To this end, the non-discrimination principle acts as another insurance that incentivises Member States to transfer their sovereignty to supranational institutions.

### **2.1.4 Relationship with NATO**

Knowing that five out of six Member States were also a part of NATO, it should not be surprising that there were multiple articles within the Treaty dedicated specifically to the relationship between these two organisations. While they retained political independence, conduct respectful of such provisions was reciprocally guaranteed through mutual consultation and combined meetings.<sup>84</sup>

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<sup>79</sup> *Ibid*, 33.

<sup>80</sup> I used the word “generally” because, as explained in footnote 75, the Member States could still be a part of security missions according to their wish.

<sup>81</sup> Article 6 of the EDC Treaty reads: “The present Treaty does not involve any discrimination among the Member States.”

<sup>82</sup> *Ibid*, 36.

<sup>83</sup> *Ibid*, 37.

<sup>84</sup> H. G. L, *The European Defence Community*, (The World Today, 1952), 245.

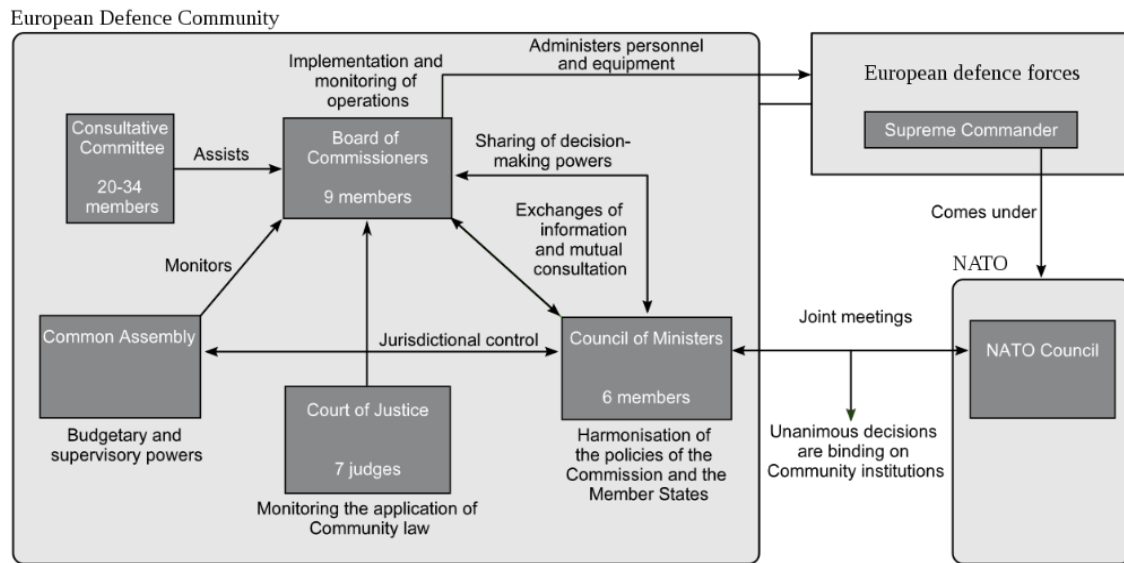


Figure 2.1. Detailed plan of the relationship between the EDC institutions and their relationship with the NATO Council. Source: Anonymous individual work published through Wikipedia (2019).

Primarily, there was a general rule of close cooperation that was codified amongst fundamental principles of the Community.<sup>85</sup> Although similar rules can be seen in the revision treaties that will follow (and most notably in the latest revision of the TEU), the EDC Treaty implied a relationship with NATO that was substantially different to the one the EU fosters today. According to the EDC version, the Community and NATO were to cooperate in the defence of Western Europe. On the flip side, in the contemporary context, the future of common defence is left uncertain as the EU has been developing a security policy, and NATO has been looking for new spheres of influence.<sup>86</sup>

Beyond the general provision formulated in Article 5, the Treaty contained numerous specific rules on general cooperation.<sup>87</sup> Finally, Protocol No. 4 to the EDC Treaty included a mutual defence clause that cannot be found in current treaties, whereby the EDC would hold a status comparable to the one of a NATO Member State.<sup>88</sup>

<sup>85</sup> Article 5 of the EDC Treaty reads: “The Community shall cooperate closely with the North Atlantic Treaty Organisation.”

<sup>86</sup> *Ibid*, 37-38.

<sup>87</sup> These include, but are not limited to, Articles 10 (2) and (4), 13, 14, 18, 48, 68 (2) and (3), 69 (2) and (3), 70 (3), 78bis (1), 87bis (4), 94, 102, 120 (3), 123(1), 127, and 128 of the EDC Treaty.

<sup>88</sup> *Ibid*, 40-41.

## 2.2 The Fall and Its Aftermath

Knowing that this defensive supranational organisation was to be non-discriminative and in a harmonious relationship with establishments of similar character, the reasons for its failure tend to seem distant and incomprehensible. Still, there are two sides to every story. In theory, the envisioned EDC was in the perfect juxtaposition to the post-war insecure Europe. However, in practice, there are concrete reasons explaining why this organisation remained fictional.<sup>89</sup>

### 2.2.1 Loss of Sovereignty

After learning that the sole aim of the EDC Treaty was “the creation of a supranational organisation to supervise integrated European Defence Forces”, it becomes clear that the EDF were nothing less than the merged armed forces of the EDC Member States.<sup>90</sup> Undoubtedly, there are several advantages of the supranational approach towards defence that have already been discussed. Yet, although an innovative idea, supranationalism remains the most controversial aspect of the EDC and ultimately the main reason for its failure.

It goes without saying that national security stands at the core of state sovereignty to this day.<sup>91</sup> Still, sovereignty is not the only thing that states (partially) lose when they decide to leave security matters in the hands of a supranational organisation. The transfer of sovereignty automatically decreases a country’s independence, since one of the main aspects of its identity (i.e. the national army) is handed to another sovereign. This can be seen in the example of voting procedures. Contrary to popular belief, supranational institutions do not always require a unanimous vote. When it comes to less sensitive matters, the institution can ask for a qualified, or even simple majority vote before deciding. Therefore, the situation where a state is outvoted remains a possibility.<sup>92</sup> With limited ability to act on their own, states suffer from a lack of confidence and confusion

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<sup>89</sup> Instead of following the mainstream literature and focusing on the reasons that explain why the French parliament did not ratify the EDC Treaty, I decided to dedicate this Section to less specific matters and explore the broader implications of this extraordinary project. More detailed reasons for the French rejection are analysed in great detail by A. Kanter in *The European Defence Community in the French National Assembly: A Roll Call Analysis*, (Comparative Politics, 1970).

<sup>90</sup> *Ibid*, 13.

<sup>91</sup> *Ibid*, 29.

<sup>92</sup> *Ibid*, 17.

over their authority, ultimately becoming deprived of their national identity. Thus, this negative domino effect was one of the reasons that persuaded Member States that they would be better off if they complied with the status quo.

### **2.2.2 Expectancy Gap**

Another problem emerged when the States started thinking about the transfer of the EDC Treaty provisions from paper to reality. The most concrete example would be the aforementioned principle of non-discrimination.<sup>93</sup>

Firstly, the sole fact that one of the motivations behind the Treaty was to avoid the establishment of the German national armed forces represents discrimination in itself as all other States had already operated their respective pre-established sovereign militaries. Secondly, since Germany was not a Member State of the UN or NATO, some of the provisions that apply to other Member States would prove useless for the Federation.<sup>94</sup> This would be the case when it comes to transatlantic solidarity or peacekeeping missions. Therefore, the former German Secretary of State for Foreign Affairs – Walter Hallstein – was not entirely wrong in saying that Germany could be considered an equal member of the EDC only if the other five Member States would give up their representation in NATO.<sup>95</sup>

Nevertheless, although some of the Community's principles seem inadequate and allow for grey areas to emerge, it remains uncertain whether they would operate successfully regardless of their fallacies as the EDC never came into existence in the first place.

### **2.2.3 Contemporary Focus on Security**

The fact that defence remained a national matter in the aftermath of the failed EDC project bears further ramifications. Not only it shaped how European integration proceeded, but

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<sup>93</sup> It is important to note that I will be using the example of the German Federation only because it has been in a significantly different position to other Member States, which makes it useful to illustrate the point. Precisely because of its standing, Germany was quick to ratify the Treaty without being overwhelmingly concerned with issues brought about through the supranational character of the EDC. To this end, rather than dealing with the concrete reasons that explain why the Treaty was never adopted, the following paragraph is aimed at highlighting practical difficulties associated with the Community.

<sup>94</sup> *Ibid*, 36.

<sup>95</sup> H. G. L, *The European Defence Community*, (The World Today, 1952), 243.

it also provided us with a crooked lens through which we observe current geopolitical threats.

It is not a coincidence that military capacity is considered an instrument of security policy rather than defence policy in the contemporary context. Ever since the rejection of the EDC, the common defence has remained a sensitive and abstract topic for the EU Member States. The authors of amending treaties have been particularly careful while suggesting any possibilities of further defence integration. For that reason, the TEU does not commit Member States to take any tangible steps towards common defence; it purely sees it as a distant opportunity that might be realised in the future. Simply put, defence has become less relevant than it was 80 years ago.<sup>96</sup>

Since then, many issues have indeed been resolved. The necessity to stop German rearmament is no longer an option. The Soviet Union has disappeared. But does that mean that we should not be concerned with defence anymore? It is true that no World War is going on at the moment (at least officially), yet global threats continue to multiply. On top of that, the character of conflict has changed in unexpected manners. Besides conventional war, we have been witnessing cyber-attacks, nuclear threats, war on terror, ethnic conflicts, civil uprisings, and many more types of disputes. The overwhelming focus on security did not diminish the need for defence. Now, more than ever is the time to rethink it.

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<sup>96</sup> *Ibid*, 32.

### **3. The Gradual Development of the European Political Co-operation: Informal Policy Harmonisation in the High Politics Area**

#### **3.1 Taking a Step Back**

The unfortunate destiny of the EDC took defence policy off the European integration table and reduced Member States' enthusiasm when it came to tackling security issues. The six remained surrounded by fear and ambiguity, not knowing what to expect from the following step. However, they were positively certain about a few things; the next big project was to be less ambitious, more cautious and, by all means, not supranational.

Still, the EDC was not the only failure that the Member States encountered. As discussed in Chapter One, when it came to matters of defence and security, the 1960s did not prove to be any more successful than the previous decade. Although initially more appealing, de Gaulle's Fouchet Plans which came only a few years after the ratification of the Treaty of Rome encountered the same fate as the EDC.<sup>97</sup> The legacy of the Community seemed inescapable.

Nevertheless, when the unified EC was formed through the ratification of the 1965 Merger Treaty, Member States started pondering the prospects of deeper foreign policy coordination once again. As luck would have it, that ended up being exactly what they achieved by designing the EPC that will take over the next 20 years of European integration.

##### **3.1.1 The Gradual Evolution**

Unlike the EDC, the EPC did not appear as a breakthrough from the old principles of European integration, concisely described in a single document prepared ahead of time. Instead, most of the functional arrangements were developed over the course of 16 years and set out in three separate ad hoc Reports that formalised the pre-existing agreements.<sup>98</sup>

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<sup>97</sup> Having in mind that the purpose of this Chapter is to evaluate the EPC project, and that Fouchet Plans were already discussed in Chapter One of this paper, I will refrain from making any other remarks regarding de Gaulle's initiative. For a more detailed description and an analysis of the Plans, turn to point 1.2.1 of this paper.

<sup>98</sup> P. Koutrakos, *The EU Common Security and Defence Policy*, (Oxford University Press, 2013), 11.



Whilst focusing on different elements of coordination, these also allowed for the stable institutional strengthening and progressive widening of the EPC's policy scope.<sup>99</sup>

Firstly, the 1970 Luxembourg Report simply reinforced the need for a collective international stance that would match the Communities' economic progress. Secondly, the Copenhagen Report that followed three years later reiterated the vague objectives of the EPC, this time narrowly addressing the object of security in the light of the Conference on Security and Cooperation in Europe. Thirdly, the 1981 London Report defined the aims of the EPC in upscale, lavish ways, thereby showing the growth in the project's ambition while mentioning security in broader terms. Lastly, it was the year 1986 when the reference to security was included in the primary law for the first time. As a byproduct of a wider federalist movement towards Community reform, the SEA amended the founding Treaty of Rome by adding an EPC-dedicated article to the original text.<sup>100</sup> Yet, although now a part of the primary law, the distinct nature of the EPC was fully maintained by placing Article 30 of the SEA in a separate Title (Title III) of the Treaty.<sup>101</sup>

### **3.1.2 The Institutional Framework**

It is interesting to acknowledge that for the first seventeen years of its existence, the EPC had no formal standing, as it was merely based on agreements between Member States' foreign ministers. Put simply, the EPC was constructed to develop a foreign affairs consultation framework amongst Western European countries; it was "a private club, operated by diplomats for diplomats."<sup>102</sup> By working on an increased mutual understanding and a higher level of solidarity, the EC Member States formed a regime that de facto imposed a non-binding limit on their unilateral acts.<sup>103</sup> To this end, the EPC

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<sup>99</sup> J. C. Øhrgaard, 'Less than Supranational, More than Intergovernmental': European Political Cooperation and the Dynamics of Intergovernmental Integration, (*Millennium: Journal of International Studies*, 1997), 2.

<sup>100</sup> S. J. Nuttall, *European Political Co-operation*, (Oxford University Press, 1992), 239.

<sup>101</sup> The distinction is even clearer knowing that the contents of Article 30 SEA were supposed to form a completely separate treaty until the closing stages of the negotiations. Furthermore, the Decision adopted by foreign ministers on 28 February 1986 should be read in conjunction with Title III of the SEA as it provides further technical details, allowing for alternations to be made through simple Ministerial decisions, without the need to amend the SEA itself. For further information, see P. Koutrakos, *The EU Common Security and Defence Policy*, (Oxford University Press, 2013), 11-14 and S. J. Nuttall, *European Political Co-operation*, (Oxford University Press, 1992), 253.

<sup>102</sup> S. J. Nuttall, *European Political Co-operation*, (Oxford University Press, 1992), 11.

<sup>103</sup> G. Schneider and C. Seybold, *Twelve Tongues, One Voice: An Evaluation of European Political Cooperation*, (*European Journal of Political Research*, 1997), 369.

can be described as “a case of intergovernmental cooperation in an area of high politics.”<sup>104</sup>

Two main interrelated features marked the framework under which the EPC was functioning. First, as already mentioned, to counter the allegations against the supranationalism of the EDC, the EPC was intended to operate on a strictly intergovernmental basis. Accordingly, its institutional framework displayed no supranational characteristics. Second, and precisely due to the previous characteristic, although there was no supranational authority that would ensure the compliance of Member States with the EPC principles, its work was envisioned to be entirely separated from the EC.<sup>105</sup> Therefore, no supranational institutions of the Communities had any formal powers when it came to the EPC.<sup>106</sup>

Once officially formalised within Article 30, the SEA provisions referred to the Member States as “the High Contracting Parties” to emphasise their vital role when it comes to the intergovernmental character of the EPC and its distinction from the EC. However, the change in its legal status did not substantially affect how the EPC operated. Rather, a series of compromises followed between those advocating for further integration through the strengthening of agreements, and others who felt comfortable with regards to the status quo.<sup>107</sup> To this end, the consultation mechanism that the Member States came up with was based on regular meetings between their ministers, assisted by the newly established Political Committee, while the scope of the EPC was defined as “any foreign policy matters of general interest.”<sup>108</sup>

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<sup>104</sup> J. C. Øhrgaard, ‘Less than Supranational, More than Intergovernmental’: European Political Cooperation and the Dynamics of Intergovernmental Integration, (Millennium: Journal of International Studies, 1997), 3.

<sup>105</sup> P. Koutrakos, *The EU Common Security and Defence Policy*, (Oxford University Press, 2013), 10.

<sup>106</sup> Although it is true that the necessary association between the EC and the EPC was noticed when the London Report was issued, the European Commission still remained in the absence of any executive powers over the EPC policies. Similarly, the European Parliament was only consulted when needed. For more information, see J. C. Øhrgaard, ‘Less than Supranational, More than Intergovernmental’: European Political Cooperation and the Dynamics of Intergovernmental Integration, (Millennium: Journal of International Studies, 1997), 11.

<sup>107</sup> S. J. Nuttall, *European Political Co-operation*, (Oxford University Press, 1992), 253.

<sup>108</sup> Article 30.2 of the SEA. For further information, see P. Koutrakos, *The EU Common Security and Defence Policy*, (Oxford University Press, 2013), 14 and S. J. Nuttall, *European Political Co-operation*, (Oxford University Press, 1992), 253.

### 3.1.3 The Coordination Reflex

Without a central authority that would overlook the implementation of the EPC framework, the coordination of the Member States' foreign policies rested on mutual trust. To encourage such reliance, the EPC stimulated a sense of engagement between the ministerial participants through their frequent socialisation. Their meetings were largely informal, designed to make the diplomats more "Europeanised."<sup>109</sup> By increasing the contact between the ministers, the diplomatic network became denser, and coordination developed more into a reflex than a forced policy response. Consultation seemed natural and the consensus was easier to find.

Likewise, sanctions for non-compliance did not stem from legal obligations but from social expectations. This also ensured the *stickiness* of the Member States' positions, as their credibility would potentially be threatened if they chose to change their opinion or refused to comply with the common view. In this perspective, despite its intergovernmentalism, the EPC did not only reflect the lowest common denominator between its members. Instead, it taught the Member States how to adjust their national interests and be more open to compromise in the absence of a mediator.<sup>110</sup>

### 3.2 The Backfire

But is this collective perspective of social duty truly enough to incentivise Member States to comply with the conformist opinion? And what happens when there is a certain policy issue that directly concerns one of them? What about discrepancies? Is this intergovernmental tool powerful enough to achieve effective collective security on its own?

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<sup>109</sup> J. C. Øhrgaard, 'Less than Supranational, More than Intergovernmental': European Political Cooperation and the Dynamics of Intergovernmental Integration, (Millennium: Journal of International Studies, 1997), 19.

<sup>110</sup> J. C. Øhrgaard, 'Less than Supranational, More than Intergovernmental': European Political Cooperation and the Dynamics of Intergovernmental Integration, (Millennium: Journal of International Studies, 1997), 12.

### 3.2.1 Consistency Requirement

Although the EPC was originally supposed to operate at a substantial distance from the EC, soon enough it became obvious that total isolation was unfeasible.<sup>111</sup> The complete separation of high politics (including security and defence, but also the foreign policy system) from low politics (most notably economic policies) was impossible. Thus, whilst being institutionally fully intergovernmental, some of the EPC functioning exhibited characteristics that go beyond traditional intergovernmentalism. The primary reason behind this was that the EPC was situated in a setting where the mere possibility of cooperation between Member States rested on the perceptions of successful economic integration.<sup>112</sup>

Nonetheless, there were also more specific grounds that explain why such a distinction was so hard to maintain. Firstly, upon the adoption of the SEA, the EPC and the EC formally shared the same objective.<sup>113</sup> However, not only that both worked towards achieving the same goals, but they also dedicated a single institution – the European Council – to the supervision of their consistent effort.<sup>114</sup> If perceived as a predecessor to some of the provisions of the upcoming Union’s Treaties, this notion could be seen as an “embryonic form of the requirement of consistency.”<sup>115</sup> Secondly, the fact that the same Member States were following two different frameworks led to an inevitable identity conflict among the ministers who were representing their countries at the consultation meetings.<sup>116</sup> Thirdly, the separation between the EPC’s foreign policy and the EC’s

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<sup>111</sup> The first paragraph of Article 10 of the 1973 Copenhagen Report reads: “Having regard to the widening scope of the European Communities and the intensification of political cooperation at all levels, four colloquies will be held each year at which the Ministers will meet with members of the Political Committee of the European Parliament. For the purpose of preparing the colloquies, the Political Committee will draw to the attention of Ministers proposals adopted by the European Parliament on foreign policy questions.”

<sup>112</sup> P. Koutrakos, *The EU Common Security and Defence Policy*, (Oxford University Press, 2013), 12.

<sup>113</sup> According to Article 1 of the SEA, “the European Communities and European Political Co-operation shall have as their objective to contribute together to making concrete progress towards European unity.”

<sup>114</sup> S. J. Nuttall, *European Political Co-operation*, (Oxford University Press, 1992), 14.

<sup>115</sup> P. Koutrakos, *The EU Common Security and Defence Policy*, (Oxford University Press, 2013), 12.

<sup>116</sup> For instance, in November 1973, the ministers who were meeting in Copenhagen to finalise the EPC report were travelling to Brussels on the evening of the same day to meet as the Communities’ Council of Ministers. For further information, see J. C. Ørregaard, ‘Less than Supranational, More than Intergovernmental’: *European Political Cooperation and the Dynamics of Intergovernmental Integration*, (*Millennium: Journal of International Studies*, 1997), 11.

external relations was difficult to preserve and often inefficient due to the overlapping members and shortage of the appropriate (binding) instruments on behalf of the EPC.<sup>117</sup>

### 3.2.2 *A De Facto Binding Nature and the Principle of Consensus*

As previously mentioned, the objectives of the EPC were addressed in very vague terms for a long time. Even though the policy areas were progressively widening, they imposed no formal obligations on the Member States. Therefore, the EPC has never amounted to a legal commitment.<sup>118</sup> Rather, the coordination of Member States' positions merely reflected their political will. This remained true even when the provisions that regarded the EPC became a part of the primary law, as the Member States increasingly focused on the "softer" aspects of high politics.<sup>119</sup>

Of course, some of the reasons that gave rise to this phenomenon can be attributed to the sensitivity of the policy areas and the fear induced by EDC failure. Most notably, there was a lack of an express reference to defence in any documents that formalised the EPC conduct over the years. The developments in the high politics sector were mostly focused on foreign policy, while gradually developing a marginal security aspect. Hence, it is important to mention that all security provisions simply referred to "European" security and/or identity, rather than incorporating any aspects of Member States' or EC's safety. To this end, the security dimension seen through the EPC lens was openly differentiated from national security and defence.<sup>120</sup> Hence, the EPC was often criticised for being limited to declaratory diplomacy, with no possibility to conduct collective military action.<sup>121</sup>

Besides the hazy and unprecise articulation of the three Reports and the SEA provisions, there was a further obstacle that jeopardised the coercion of the EPC system; that is, its

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<sup>117</sup> Article 30.5 of the SEA stated that "the external policies of the European Community and the policies agreed in European Political Co-operation must be consistent." For further information, see S. J. Nuttall, *European Political Co-operation*, (Oxford University Press, 1992), 254.

<sup>118</sup> J. C. Øhrgaard, 'Less than Supranational, More than Intergovernmental': *European Political Cooperation and the Dynamics of Intergovernmental Integration*, (Millennium: Journal of International Studies, 1997), 9.

<sup>119</sup> This led the 1990s academics such as Allen and Smith to depict Western Europe as "neither a fully-fledged state-like actor nor a purely dependent phenomenon in the contemporary international arena." For further information, see G. Schneider and C. Seybold, *Twelve Tongues, One Voice: An Evaluation of European Political Cooperation*, (European Journal of Political Research, 1997), 369.

<sup>120</sup> All of the security provisions were expressed in Article 30 (6) of the SEA. For more information, see P. Koutrakos, *The EU Common Security and Defence Policy*, (Oxford University Press, 2013), 14-15.

<sup>121</sup> S. J. Nuttall, *European Political Co-operation*, (Oxford University Press, 1992), 13.

decision-making process. When it comes to the EPC, all delegations were considered equal.<sup>122</sup> The declarations were adopted according to a unilateral consensus – meaning that every State retained its veto right – and there was no possibility of conducting a majoritarian voting procedure.<sup>123</sup> Therefore, the sensitive issues became even harder to discuss, especially when it came to certain matters where Member States displayed differing interests and conflicting opinions.<sup>124</sup> Still, as the overall EPC commitment was not legally binding for the Member States, the separate decisions followed the same rule.<sup>125</sup>

### **3.2.3 The Inside and Outside Approach**

Indeed, the internal factors that created the consultation culture amongst the Member States have had a substantial impact on the development of the so-called “coordination reflex”, making the decision-making more transparent.<sup>126</sup> However, the full picture can be seen only when external factors of the EPC development are also accounted for. The conduct of Member States was not only shaped by the information exchange with one another; it was also heavily influenced by the expectations of the third-party countries and the political environment under which the European integration was developing. Accordingly, much of the EPC’s success was judged by external actors who decided whether these Western European states could act uniformly on the international scene.

Despite the fact that the Member States had issued several common declarations, differences in their respective interpretations of such documents did not diminish. With the adoption of Title III of the SEA, the competence of the EPC was officially limited to the political and economic aspects of security. Therefore, the Member States who have been supporting closer cooperation in the realm of the broader security and defence policy

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<sup>122</sup> S. J. Nuttall, *European Political Co-operation*, (Oxford University Press, 1992), 12.

<sup>123</sup> Article 30.3 of the SEA stated that “the High Contracting Parties shall, as far as possible, refrain from impeding the formation of a consensus and the joint action which this could produce.” For further information, see S. J. Nuttall, *European Political Co-operation*, (Oxford University Press, 1992), 253.

<sup>124</sup> G. Schneider and C. Seybold, *Twelve Tongues, One Voice: An Evaluation of European Political Cooperation*, (*European Journal of Political Research*, 1997), 370.

<sup>125</sup> J. C. Øhrgaard, ‘Less than Supranational, More than Intergovernmental’: *European Political Cooperation and the Dynamics of Intergovernmental Integration*, (*Millennium: Journal of International Studies*, 1997), 10.

<sup>126</sup> D. Allen, R. Rummel and W. Wessels, *European Political Cooperation: Towards a Foreign Policy for Western Europe*, (Butterworth Scientific, 1982), 5.

have redirected their efforts towards NATO.<sup>127</sup> Furthermore, the harmonisation over a few questions did not lead to an automatic agreement over all foreign policy issues. Although it is true that the EPC framework has managed to overcome many problems without appointing a supranational authority to do so, some of its positive results can be uncovered through the influence of outside factors.<sup>128</sup>

Overall, as more research is conducted, it becomes clearer that not everything is as it seems. It is beyond doubt that EPC conduct came as a breath of fresh air for the Member States who were reluctant to discuss high politics on the Communities' level after encountering two big failures. However, is it true that old habits die hard?

While it is undeniable that reversion to an intergovernmental framework and an introduction of informality made the Member States more malleable and open to negotiations when it comes to foreign policy, it remains uncertain how such a system would respond in situations of crisis, where matters of national security and defence are at stake. To attempt to understand which system would function better under the circumstances of uncertainty, one needs to explore much more than the history of European defence integration. Thus, there is a necessity to dive into the analysis of the contemporary world.

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<sup>127</sup> M. Jopp, *Integration and Security in Western Europe: Inside the European Pillar* (Routledge, 2021), 35.

<sup>128</sup> D. Allen, R. Rummel and W. Wessels, *European Political Cooperation: Towards a Foreign Policy for Western Europe*, (Butterworth Scientific, 1982), 6.

#### 4. The Distinctive Nature of the Common Foreign and Security Policy: A Part of the EU Legal Order or a Mere Postulate of International Law?

##### 4.1 The Genesis of the Common Foreign and Security Policy

To understand the current attitude of the EU Member States towards security matters and the propositions that vouch for the common defence, there is a need to inspect one more step along the way – the evolution of the CFSP.

As should be familiar by now, the 1992 Treaty of Maastricht is the document that brought the EU into existence as a newly founded international organisation.<sup>129</sup> The TEU grounded this recently developed organisation in three pillars, each corresponding to a specific Title of the Treaty. Such structure was believed to help in distinguishing the different decision-making procedures that these pillars employed.<sup>130</sup>

The roof of the three-pillar temple provided some common provisions under Title I of the Treaty. On the one hand, comprised of the EC, the first pillar was completely communitarian. It was composed of Title II (EEC), Title III (ECSC) and Title IV (Euratom) of the TEU.

On the other hand, the second and the third pillars were largely intergovernmental. Whilst the second pillar correlated to Title V (CFSP), the third pillar contained provisions from Title VI (JHA). Finally, Title VII was dedicated to the concluding remarks and was located at the bottom of this imaginary construction.

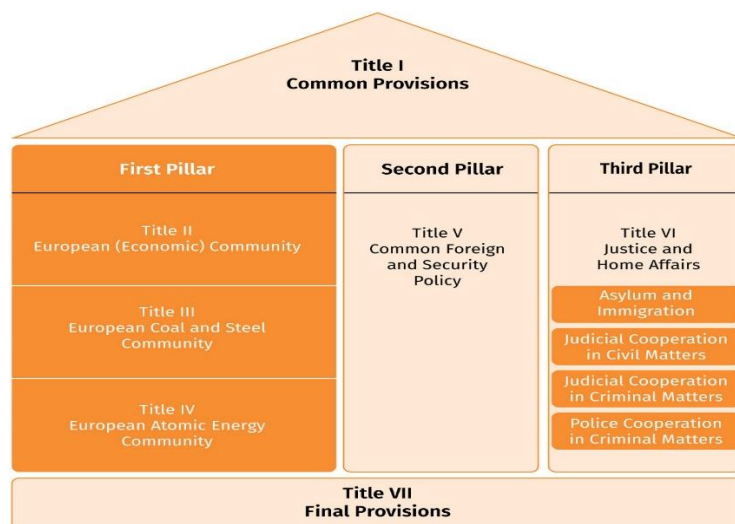


Figure 4.1. Pillar structure of the 'old' (Maastricht) Union. Source: Robert Schütze. <https://european-union-law.schutze.eu/chapter/constitutional-history-from-paris-to-lisbon/figures/>.

<sup>129</sup> Hence its recognition as the TEU – the Treaty on European Union.

<sup>130</sup> E. Jones, *The Oxford Handbook of the European Union*, (Oxford University Press, 2012), 121.



Still, in this story, the principal interest lies in the second pillar.<sup>131</sup> Hence, the question becomes the following: what was the nature of the CFSP and what are the implications of its distinctiveness?

#### 4.1.1 Communities vs. the Union

As previously stated, the second pillar was based on fully intergovernmental principles. This means that the features of the Communities' legal order that essentially limited Member States' sovereignty in certain legal fields were not applied to the CFSP. For instance, instead of being the exclusive initiator of legal bills, the Commission began to share this right with the Member States. By the same token, the European Parliament was merely consulted rather than being an effective part of the co-legislature.<sup>132</sup> Similarly, the Court of Justice was fully excluded from all procedures, while a separate administrative infrastructure was organised for the area of the CFSP. Furthermore, the principles of primacy and direct effect did not apply to the legal instruments adopted within the second pillar and the qualified majority decision-making was no longer a possibility in this domain.<sup>133</sup>

Still, the key to the CFSP specificity lied in the fact that its mere existence called for the development of completely separate implementation machinery. Therefore, the Maastricht Treaty introduced several CFSP-specific instruments that were later removed and substituted by different categories of decisions.<sup>134</sup> *Joint actions* displayed the Union's operational character, *common positions* merely allowed the EU to define its position regarding a particular matter, while *common strategies* were reserved for the areas where the Member States shared important interests. Other equally specific CFSP instruments could be found outside the Treaty, as the High Representative issued regular declarations without producing a legally binding effect. Later, Article 43(1) TEU formalised past

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<sup>131</sup> Generally, the substance of this whole paper is primarily concerned with the second pillar of the Maastricht Treaty. Still, some further features of the first and the third pillar were outlined at point 1.3.1 of the paper. To avoid unnecessary details and to circumvent any repetition, I will restrain myself from providing any further particulars about other titles of the TEU.

<sup>132</sup> Further details on the Parliament's relation to the CFSP will be provided at point 4.1.3 of this paper.

<sup>133</sup> P. Koutrakos, *The EU Common Security and Defence Policy*, (Oxford University Press, 2013), 25.

<sup>134</sup> According to Article 25 of the TEU, the Lisbon Treaty has substituted previous CFSP instruments with three different types of decisions. Nonetheless, the removal of joint actions, common positions, and common strategies was only terminological, as "the formal integration of sets of rules by no means ensures the substantive convergence of their legal effects." For further information, see P. Koutrakos, *The EU Common Security and Defence Policy*, (Oxford University Press, 2013), 36-37.

practice by outlining the non-exhaustive list of tasks through which the EU could carry out its security and defence objectives.<sup>135</sup>

The above intergovernmental features made the three dimensions that differentiate the CFSP nature and the character of other competences rather obvious. First, there was a difference in inter-institutional relations. In the case of the CFSP, more weight was given to the institutions that involve national representation. Second, the relationship between the EU and its Member States changed. When it comes to the CFSP, the competences became parallel, meaning that the Member States were not prevented from acting on their own even regarding the issues where the Union has already exercised its powers. Third, there was a divergence in the EU's relationship with its citizens, as the CFSP acts do not affect individuals directly.<sup>136</sup> Looking from this angle, confusion might arise since the CFSP can seem more like an informal creation of international law than a part of the primary law of the Union itself.

And yet, even with all the differences laid out, the inevitable interaction of areas covered under distinct pillars made sure that the CFSP bears implications on the rest of the EU legal order and vice versa.<sup>137</sup> Having such contrasting set-ups between pillars has increased the complexity and confusion surrounding the single institutional framework that the EU intended to foster. To this end, the divergence between the EC which had its own legal personality and the Union whose legal personality was a subject of broad international discussion yielded a handful of implications.<sup>138</sup>

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<sup>135</sup> These included “joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peacekeeping tasks, and tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation.” For further information, see P. Koutrakos, *The EU Common Security and Defence Policy*, (Oxford University Press, 2013), 58-59.

<sup>136</sup> C. Eckes, *The CFSP and Other EU Policies: A Difference in Nature?*. (European Foreign Affairs Review, 2015), 538–539.

<sup>137</sup> For instance, although the European Parliament was not even mentioned in the provisions relating to the second pillar, its budgeting role nevertheless bore huge implications on the CFSP (and later the CSDP), as it was managing the financing aspect of various missions and activities. For further information, see Section 4.1.3 of this paper and P. Koutrakos, *The EU Common Security and Defence Policy*, (Oxford University Press, 2013), 52.

<sup>138</sup> While the EC was traditionally granted a legal personality of its own, the reluctance of the Member States to grant similar powers in sensitive areas such as foreign and security policy left the EU with a mere treaty-making capacity when it came to the second pillar. For further information, see P. Koutrakos, *The EU Common Security and Defence Policy*, (Oxford University Press, 2013), 26.

#### 4.1.2 *Common rather than Single Policy*

It ought to be noted that the Maastricht-envisioned, harmonised foreign and security policy of the EU could never fully replace such policy of a singular state without a substantial alternation of the TEU itself. The reason behind this is the fact that the EU currently operates under the principle of conferral, which allows it to act only in line with the powers conferred to it by the treaties.<sup>139</sup> Knowing that such powers are rather limited in the CFSP area, the EU has no freedom to replace Member States' international conduct with that of its own. Consequently, when it comes to the CFSP, "the voices of the Member States are to sing in harmony but not necessarily in unison."<sup>140</sup>

Although beneficial for Member States' autonomy and sovereign powers, the CFSP's rather bounded character imposed certain limits when it comes to its enforcement, budget, and manpower. Firstly, as policy decisions within the CFSP area needed unanimous approval, the process proved to be lengthy, often accompanied by delays. Secondly, since the Treaty of Maastricht did not provide separate financial resources for the EU as opposed to those allocated by the Member States and the EC, most of the actions' operating expenditure had to be financed through borrowings. Lastly, for similar reasons, the troops available for the CFSP actions were not sufficient to allow for effective strategic foreign policy planning.<sup>141</sup>

#### 4.1.3 *The Parliamentary Vacuum*

While looking at the primary EU law, the fact that the European Parliament was largely excluded from the CFSP matters seems obvious.<sup>142</sup> But why is this the case?

Although some of the answers can be found in the above-analysed conceptual differences between foreign policy decisions and domestic policy legislation, the arguments that

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<sup>139</sup> Article 5(2) of the TEU reads: "Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States."

<sup>140</sup> E. Denza, *The Intergovernmental Pillars of the European Union*, (Oxford University Press, 2002), 90.

<sup>141</sup> E. Denza, *The Intergovernmental Pillars of the European Union*, (Oxford University Press, 2002), 121-122.

<sup>142</sup> Previous provisions of the SEA, Article J.7 of the Maastricht Treaty, as well as its later amendments all postulate that the Parliament's constitutional status within the CFSP should be limited to the regular flow of general information and consultation regarding "the main aspects and basic choices." For further information, see D. Thym, *Beyond Parliament's Reach? The Role of the European Parliament in the CFSP*, (*European Foreign Affairs Review*, 2006), 111. From now on, I will refer to this source as *Ibid.*

underpin the limited role of most national parliaments in constitutional foreign policy settings of distinct states still apply; and the European Parliament is no exception.<sup>143</sup> First, it was already demonstrated that the strategic character of foreign policy is structurally different from that of internal market management. Second, knowing that the European Parliament is often praised for its democratic accountability, the requirements of necessary confidentiality and decision-making flexibility are much easier to attain without its participation. Although transparency and public accessibility are important in democratic societies, they can often hinder the effectiveness of foreign policy action when it comes to the decisions that need to be made in the shortest possible time frame.

Substantially, the only (indirect) hard power that the European Parliament was given when it came to the CFSP was the control of the Communities' budget.<sup>144</sup> However, the Parliament has openly expressed that, whilst following the existing general mechanism, it "does not consider itself adequately consulted."<sup>145</sup> Hence, in an attempt to "parliamentarise" the CFSP, the institution has tried to use its budgetary powers as a means to extend its influence to the other domains of the CFSP regulations. As a response, the Council has reinforced extra-budgetary means of financing to overcome the problem.<sup>146</sup> The issue became less significant in the realm of security and defence where missions cannot be charged to the EC budget.

Yet, it is important to note that this *parliamentary vacuum* that the CFSP is located in is not set in stone. The historical overview of this paper has demonstrated multiple times that the EU legal order is constantly evolving and ever-changing. The Treaties have undergone many amendments before taking the shape that we acknowledge as familiar in the contemporary world. This argument is further reinforced by the absence of judicial control in the CFSP area, which created even more flexibility when it came to the legal interpretation of the Treaty provisions.<sup>147</sup> Although it becomes clear that the responsibility over matters such as the deployment of military personnel remained with the national

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<sup>143</sup> Historically speaking, such practice can be seen even by looking at former royal privileges and the British concept of the "Crown prerogative." For further information, see *Ibid*, 124-125.

<sup>144</sup> According to Article J.8 of the Treaty of Maastricht, the administrative expenditure of the CFSP shall be charged to the EC budget, while the operative expenditure might be financed by alternative means – namely national contributions – if decided so by the Council.

<sup>145</sup> Taken from the 2005 Annual Report from the Council to the European Parliament on the Main Aspects and Basic Choices of the CFSP by Elmar Brok. For more information, see *Ibid*, 112-113.

<sup>146</sup> For a closer look at the CFSP dispute between Parliament and Council, see *Ibid*, 114.

<sup>147</sup> *Ibid*, 117.

parliaments due to the intergovernmental design of the CFSP, there are still opportunities for collaboration. Insofar as the horizontal cooperation between Member States' national parliaments can be fostered through interparliamentary conferences, vertical dialogue with the European Parliament through joint committee meetings remains an option.<sup>148</sup>

#### 4.1.4 Balance or Vagueness?

At the same time, there was another reason behind the Member States' decision to leave the second pillar fully intergovernmental. When the Treaty of Maastricht was signed, twelve countries enjoyed their EU membership.<sup>149</sup>

Unfortunately for those drafting the Treaty, not all of the Member States shared the same opinions regarding the inclusion of the defence policy within the CFSP.



Figure 4.2. Independence play: Europe's pursuit of strategic autonomy. Source: European Council on Foreign Relations. [https://ecfr.eu/special/independence\\_play\\_europes\\_pursuit\\_of\\_strategic\\_autonomy/](https://ecfr.eu/special/independence_play_europes_pursuit_of_strategic_autonomy/).<sup>150</sup>

Quite the contrary; their beliefs were rather divided. The need to write a text that would be deemed acceptable by all – pro-Atlantic, pro-European, as well as neutral – countries proved to be a real challenge. Accordingly, there was a lack of common conception regarding provisions that relate to defence and their substance remained rather vague.<sup>151</sup> As a consequence, the individual countries' perception of the EU common defence remains hazy to this day.

<sup>148</sup> *Ibid*, 123.

<sup>149</sup> These include Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain, the Netherlands, and the United Kingdom.

<sup>150</sup> This source was published in 2019, hence the inclusion of the UK to the map.

<sup>151</sup> E. Jones, *The Oxford Handbook of the European Union*, (Oxford University Press, 2012), 128.

## 4.2 The (Un-)Changing Nature of the EU Common Foreign and Security Policy

Precisely because of the aforementioned difficulties that underlined the implementation of the CFSP, came its revision through the 2007 Treaty of Lisbon.

### 4.2.1 De-pillarisation

Most notably, the 2007 Treaty abolished the thoroughly discussed pillars, thereby combining the three legal frameworks into a unitary EU structure. Considering all the confusion that the three-pillar layout has caused in the past, its removal was considered “one of the main positive features of the current constitutional arrangements.”<sup>152</sup>

Essentially, the Treaty of Lisbon transferred the newly renamed third pillar (PJC) to the first one, thereby making it supranational. From 2007 on, the provisions that regarded both, the EC and the PJC could be found under the TFEU.

The CFSP remained intergovernmental and (along with the CSDP) the only substantive external policy located outside of the TFEU. Nonetheless, this increasingly unified system of external policies was believed to improve the clarity of the EU legal order.

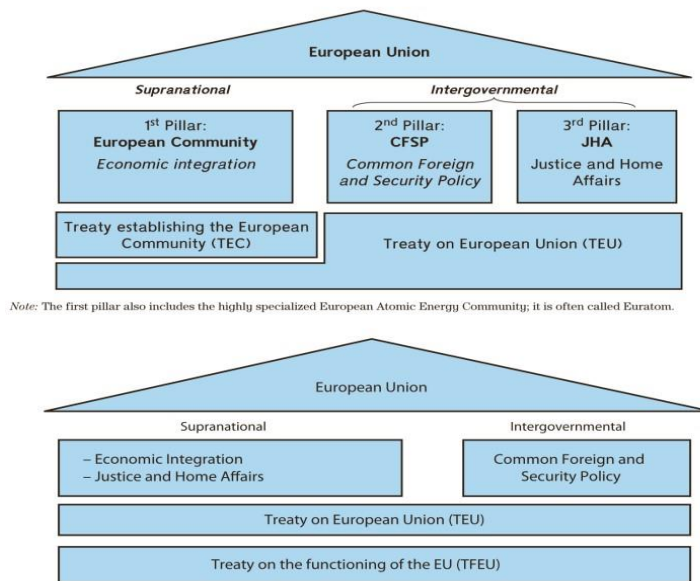


Figure 4.3. EU structure: pre and post-Lisbon compared. Source: McGraw Hill Education. <http://willmann.com/~gerald/euroecon/chp2-slides.pdf>.

### 4.2.2 Supranational CFSP?

The Treaty of Lisbon introduced several big innovations in the CFSP field. First, it added new personnel to the EU institutional framework. The role of the High Representative of the Union for Foreign Affairs and Security Policy was extended to include the function

<sup>152</sup> P. Koutrakos, *The EU Common Security and Defence Policy*, (Oxford University Press, 2013), 26.

of the Vice-President of the European Commission, while also being fused with the position of the former Commissioner for External Relations to “ensure the consistency of the Union’s external action.”<sup>153</sup> A permanent President of the European Council was put in place to “ensure the external representation of the Union on issues concerning its common foreign and security policy, without prejudice to the powers of the High Representative of the Union for Foreign Affairs and Security Policy.”<sup>154</sup> The European External Action Service was formed under the authority of the High Representative, bringing together the EU officials and Member States’ diplomats to “address EU foreign policy priorities, including civilian and military planning and crisis response.”<sup>155</sup>

Second, the Treaty amended some of the existing Treaties’ provisions, while also adding new ones. Most notably, it introduced the broadly-anticipated legal personality of the EU as a whole through Article 47 TEU.<sup>156</sup> Additionally, Article 40 TEU removed the priority that non-CFSP policies held over the CFSP, thereby making them seem equally important.<sup>157</sup> Furthermore, the ESDP was renamed CSDP and placed under the CFSP provisions to display its high status and the commonality of its purpose.<sup>158</sup> All of the above-outlined dimensions can be said to show a slight increase in what can possibly – but very cautiously – be called the supranational character of the CFSP.<sup>159</sup>

### 4.2.3 The Paradox

“The CFSP is a halfway house – no longer the purely intergovernmental affair of the early days, but not yet a fully-fledged policy arm of the Union, with its own brand of Community procedures.”

– S. J. Nuttall.<sup>160</sup>

Although it is true that the Lisbon Treaty brought CFSP and other policies closer together by subjecting them to the same general principles of the Union, the CFSP has ultimately

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<sup>153</sup> Article 18(4) of the TEU.

<sup>154</sup> Article 15(6) of the TEU.

<sup>155</sup> European Union External Action, The EU International Roles, [https://www.eeas.europa.eu/\\_en](https://www.eeas.europa.eu/_en).

<sup>156</sup> Article 47 of the TEU reads: “The Union shall have legal personality.”

<sup>157</sup> M. Kellerbauer et al, *The EU Treaties and the Charter of Fundamental Rights*, (Oxford University Press, 2019), 267.

<sup>158</sup> Article 42(1) of the TEU reads: “The common security and defence policy shall be an integral part of the common foreign and security policy [...]” For further information, see P. Koutrakos, *The EU Common Security and Defence Policy*, (Oxford University Press, 2013), 30.

<sup>159</sup> N. Klein and W. Wessels, *CFSP Progress or Decline after Lisbon?*, (European Foreign Affairs Review, 2013), 461-463.

<sup>160</sup> S. J. Nuttall, *European Foreign Policy*, (Oxford University Press, 2000), 275.

managed to maintain its distinctiveness. The support for this claim can be found through a closer inspection of the Treaties' provisions. For example, Article 2 TFEU distinguishes between four types of competences but refuses to classify the CFSP in any of the groups. In the same vein, Article 24 (1) TEU affirms that the CFSP is "subject to specific rules and procedures", while Article 40 TEU introduces "a reciprocal non-encroachment or non-affectation clause between CFSP and other Union policies."<sup>161</sup>

Therefore, a paradox emerges – although the changes that the Treaty of Lisbon brought about made the architecture of the Union more structurally integrated, the perceived unity was not effectively transferred into legal terms. In other words, "the CFSP and CSDP constitute a distinct pillar of the Union's structure in all but name."<sup>162</sup> Hence, even though the post-Lisbon order might seem less complex at a glance, anyone who wishes to explore it slightly deeper will uncover that when it comes to the EU, there is no use in judging the book by its cover.

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<sup>161</sup> M. Kellerbauer et al, *The EU Treaties and the Charter of Fundamental Rights*, (Oxford University Press, 2019), 267. For further information, see P. Koutrakos, *The EU Common Security and Defence Policy*, (Oxford University Press, 2013), 27-28.

<sup>162</sup> P. Koutrakos, *The EU Common Security and Defence Policy*, (Oxford University Press, 2013), 29.



## 5. What Comes Next: Contemporary Push for the EU Strategic Autonomy and its Future Implications

### 5.1 Where Are We Now?

“Europe will be forged through crises and it will be the sum of the solutions brought to these crises.”

– J. Monnet.<sup>163</sup>

And so it was.

In a landscape of dynamic geopolitical alternations, global instability, cyber terrorism and climate change, security has become a (much-needed) privilege. Paradoxically enough, European integration in security and defence has advanced more in the last three years than it has over the past three decades. More specifically, several unprecedented changes took place in the fields of CFSP and CSDP. The EU has approved a “Strategic Compass” aiming at a united security strategy, deepened its relationship with NATO, approved more sanctions packages than ever, activated a Military Assistance Mission, and mobilised the European Peace Facility (EPF) for the first time.<sup>164</sup> To this end, the 2020s integrationist push has been particularly evident.<sup>165</sup>

Still, the shift in geopolitical climate also highlighted the limits of the Union’s military capabilities, including post-Cold War reduction in defence spending, Member States’ defence capability gaps, the stance of a market power that uses economic instruments for political aims, as well as “the cost of non-Europe in defence.”<sup>166</sup> A closer look at the crises that led to these (under-)developments will reveal the implications of the Union’s current positioning.

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<sup>163</sup> J. Monnet, *Memoirs: Jean Monnet*, (Third Millennium, 2015).

<sup>164</sup> F. Fabbri, *EUROPEAN DEFENCE UNION ASAP: The Act in Support of Ammunition Production and the Development of EU Defence Capabilities in Response to the War in Ukraine*, (*European Foreign Affairs Review*, 2024), 70-71.

<sup>165</sup> F. Hoffmeister, *Strategic Autonomy in the European Union’s External Relations Law*, (*Common Market Law Review*, 2023), 699.

<sup>166</sup> This term refers to the duplication and waste that occurred due to a lack of coordination of Member States’ national military expenditures. For further information, see *Ibid*, 72.

### 5.1.1 Brexit: EU or European Army?

The outcome of the Brexit referendum posed a big challenge to the blossoming of the CSDP, as well as the strength of the overall EU integration. The question that everyone interested in European defence was asking was the following: where did the prospect of a common army foundation stand after the EU had lost one of its *Big Three*?<sup>167</sup>

More than anything else, the British decision to leave the EU has uncovered the distinction between two security trends on the continent – the EU security arrangements on the one hand, and European security groundwork on the other. Thus far, whether formal or informal, the focal point of this paper included only the EU security arrangements. To this end, the introduction of much broader European security adds another layer of complexity to the debate – the emergence of new players in the security game, including non-EU countries such as the Western Balkans, Ukraine, and ultimately the UK.

Being a nuclear power, a part of the G7 and the G20, as well as a permanent seat holder in the UNSC, the British shift from the EU to European security bore severe implications on the strength of the EU defence integration. For once, the EU was deprived of one of its biggest military powers. Still, this does not necessarily mean that the Union has lost an ally. Despite the UK's commitment to withdraw from the EU, Britain remains closely connected to the defence initiatives proposed by the EU Member States.<sup>168</sup> In such a way, projects such as the French-led European Intervention Initiative (EI2) ensure that the UK is still integrated into the defence of the European continent.<sup>169</sup>

### 5.1.2 Strategic Compass

“Strategic autonomy” is often used to describe the key goal of the European endeavour in the defence area. Although this term started gaining momentum in 2016, the notion itself was fostered long before.<sup>170</sup> In a nutshell, the aforementioned expression refers to

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<sup>167</sup> M. E. Koppa, *The Relationship between CSDP and NATO after Brexit and the EU Global Strategy*, (Foundation for European Progressive Studies, 2019), 2.

<sup>168</sup> Some of the reasons for such sentiment are its close partnership with France in the defence field, but also the fear of the overall exclusion from European politics.

<sup>169</sup> For more details on the EI2, consult section 5.2.2 of this paper.

<sup>170</sup> This point will be further addressed in the conclusive remarks of this Chapter. For more details, see G. Martin and V. Sinkkonen, *Past as Prologue? The United States and European Strategic Autonomy in the Biden Era*, (*European Foreign Affairs Review*, 2022), 100.

“the capacity of the EU to act autonomously – that is, without being dependent on other countries – in strategically important policy areas.”<sup>171</sup>

In November 2021, the High Representative of the Union for the CFSP Josep Borrell assessed that “Europe is in danger due to strategic shrinkage”, fostering the idea of the creation of a European army as a solution. He suggested that the “politics of event” that the EU has been fostering for a while – that is, the evidence of strengthened cooperation between the Member States in light of major crises – could ultimately lead to a more daring defence strategy. Still, even though the European leaders did not fully reject the idea of a bolder defence project, they do not seem to approve of the fully-fledged supranational army just yet.<sup>172</sup>

In an attempt to reinforce further defence integration without resorting to the ultimate step of army creation, the EU defined its ambitions by establishing the March 2022 Strategic Compass. The document identified four key principles in the Union’s approach.

Firstly, “acting” referred to the establishment of an EU Rapid Deployment Force of 5,000 troops and the financing of its military action through the EPF. Secondly, “securing” accounted for a newly introduced domain of cyber defence, with a specific task of fighting disinformation. Thirdly, “investing” encouraged concentration on the challenges of reduced strategic dependence, alluding to the need to achieve more strategic autonomy. Lastly, “partnering” entailed the deepening of current EU partnerships and the development of new ones. Having the above in mind, it can be postulated that the latest EU preference is the creation of new legal instruments that would enlarge its foreign policy apparatus by tackling the issue of third States’ distortive practices.<sup>173</sup>

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<sup>171</sup> As defined in EU Strategic Autonomy 2013-2023: From Concept to Capacity, (European Parliament Website, 2022). From a legal perspective, strategic autonomy can be seen as a concept that encourages the concentration on the constitutional objectives under Article 21(2)(a) of the TEU: “the pursuit of common policies and actions to safeguard [Union’s] values, fundamental interests, security, independence and integrity.” For further information, see F. Hoffmeister, Strategic Autonomy in the European Union’s External Relations Law, (Common Market Law Review, 2023).

<sup>172</sup> J. Borrell, A Strategic Compass for Europe, (Project Syndicate, 2021). For further information, see also R. Hartwig-Peillon, The European Army Project: The Answer to the Union’s Strategic Shrinkage?, (Europeum Monitor, 2022).

<sup>173</sup> To name a few examples, these include the 2019 Investment Screening Regulation, the 2022 International Procurement Act, and the 2022 Foreign Subsidy Instrument. For more details, see F. Hoffmeister, Strategic Autonomy in the European Union’s External Relations Law, (Common Market Law Review, 2023), 696-698.

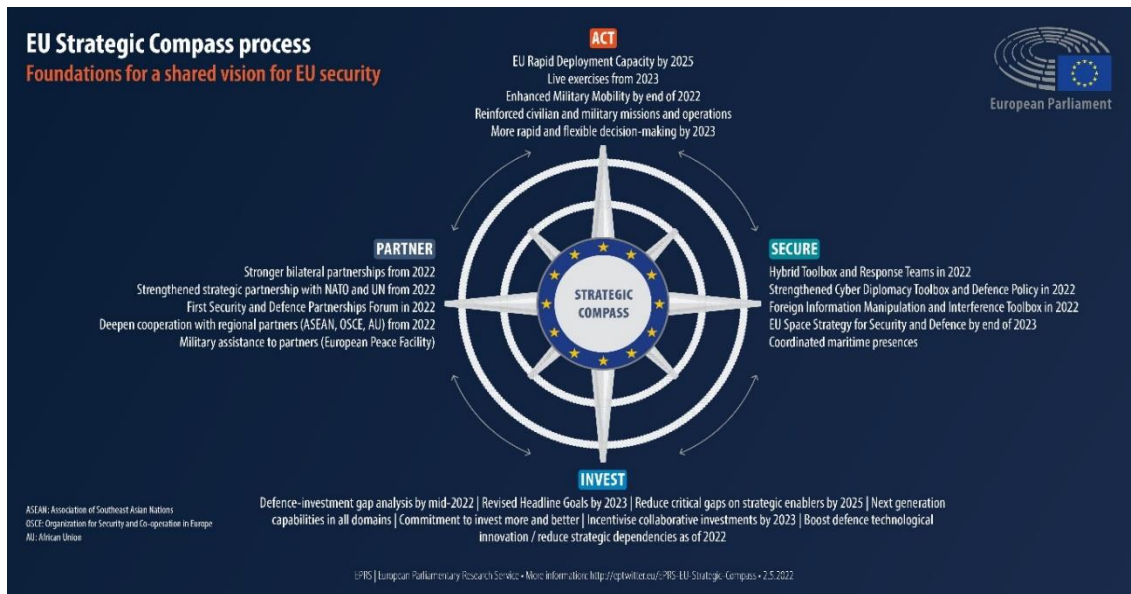


Figure 5.1. EU Strategic Compass process. Source: European Parliamentary Research Service. <https://www.flickr.com/photos/194102805@N02/51614188023/in/album-72157720054506376/>.

### 5.1.3 The Cease of the Long Peace on the European Continent

One of the most recent wide-reaching distortive practices was the beginning of the war in Ukraine that indisputably and utterly disturbed the European continent. During the special summit in Versailles, heads of state/government of the 27 Member States acknowledged that it constituted “a tectonic shift in European history.”<sup>174</sup> From the extensive sanctions to energy crises, Europe needed to adapt to the return of large-scale inter-state conflict.

The biggest challenge to the European response laid in the fact that the EU authority in the security and defence field was rather limited. From its beginnings, the EU relied on economic integration, often using economic policies to achieve goals from its geopolitical agenda. Nevertheless, the Russian move in Ukraine displayed the risks of the European long-fostered economic interdependence and the need for military assistance. According to Article 41(2) TEU, the EU could not provide any military aid to Ukraine through its operating expenditure.<sup>175</sup> Therefore, at first, the Union turned to its well-known

<sup>174</sup> Informal Meeting of the Heads of State or Government: Versailles Declaration, (European Council Press Release, 2022), paragraph 6.

<sup>175</sup> Article 41(2) of the TEU reads: “Operating expenditure to which the implementation of this Chapter gives rise shall also be charged to the Union budget, except for such expenditure arising from operations having military or defence implications and cases where the Council acting unanimously decides otherwise.” For further information, see N. Helwig, EU Strategic Autonomy after the Russian Invasion of Ukraine: Europe’s Capacity to Act in Times of War, (Journal of Common Market Studies, 2023), 59-61.

diplomatic efforts – the introduction of sanctions against Russia, its isolation from the international stage, and the legal support of Ukraine in international criminal law tribunals.<sup>176</sup>

However, the summer of 2023 proved a turning point in this aspect. In June last year, the EU approved a European Defence Industry Reinforcement through common Procurement Act (EDIRPA). To complement the EDIRPA, the Union’s co-legislator also adopted the Act in Support of Ammunition Production (ASAP) in July 2023, intending to boost the production capabilities of its defence industry and accelerate the delivery of artillery and missiles to Ukrainian battlefields. Knowing that the production and procurement of such ammunition was funded directly through the EU budget for the first time, this regulation can be considered the most recent breakthrough in the Union’s defence policies. Therefore, ASAP marked the beginning of the EU involvement in the domain of military capabilities, and it did so with the most supranational character since the 1950s. This can be seen as a step closer towards the development of a real EU defence Union, as depicted by Article 42(2) TEU.<sup>177</sup>

From the EU legal perspective, ASAP led to significant (in)formal advancements in the domain of the CFSP and CSDP. For once, the European Commission started applying the Treaties’ supranational legal provisions more broadly; Articles 114 and 173(3) TFEU were used as the basis for ASAP itself. Accordingly, since the beginning of the war in Ukraine, Article 173(3) TFEU has been utilised more frequently and “aggressively.”<sup>178</sup> This proves that the system of competence allocations is noticeably more complicated than Article 2 TFEU suggests.<sup>179</sup> Hence, it becomes obvious that the EU institutions can

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<sup>176</sup> F. Hoffmeister, *Strategic Autonomy in the European Union’s External Relations Law*, (Common Market Law Review, 2023), 686.

<sup>177</sup> Article 42(2) of the TEU reads: “The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides. It shall in that case recommend to the Member States the adoption of such a decision in accordance with their respective constitutional requirements.” For further information, see F. Fabbrini, *EUROPEAN DEFENCE UNION ASAP: The Act in Support of Ammunition Production and the Development of EU Defence Capabilities in Response to the War in Ukraine*, (European Foreign Affairs Review, 2024), 80. From now on, I will refer to this source as *Ibid*.

<sup>178</sup> Being the only provision of Title XVII (Industry) of Part III of the TFEU, the legal base function of Article 173 TFEU has historically been quite marginal. This is because according to Article 6(b) of the TFEU, the Member States were considered more dominant than the Union when it came to this field. However, since the beginning of the war, it has been used as a legal basis for several regulations, including ASAP, EDIRPA, and the Chips Act. For further information, see *Ibid*, 76-78.

<sup>179</sup> As mentioned on several occasions throughout this paper, Article 2 of the TFEU classifies the Union’s competences into distinct categories (exclusive, shared, coordinating, supporting and supplementing).

adjust to changing external circumstances when necessary.<sup>180</sup> Beyond initiating several advances in the CFSP and CSDP fields, the war also highlighted the need for their urgent implementation. The impact was extended to the EU's financial instruments, a revival of its enlargement process, and industrial policy strategy.<sup>181</sup>

To this end, some started comparing the EU's ASAP to the US Defence Production Act. Although quite significant for the further development of the EU defence capabilities, such comparison tends to be far-fetched for several reasons. First, despite being funded through the Union's budget, the resources reserved for ASAP remain rather limited, and realistically, quite negligible.<sup>182</sup> Second, some of the ambitions of the Commission's original proposals were excluded from the final draft of the regulation.<sup>183</sup> Third, the limitations of the EU's CFSP and CSDP tend to reinforce broader structural restrictions when it comes to the document itself.<sup>184</sup>

Overall, more than anything else, ASAP continues to be a reminder of the ever-developing character of the CSDP. European Parliament's call for the expansion of the Union's capacity to act in a challenging geopolitical context through the creation of "a truly European defence equipment market" highlighted the need for further steps, starting from an increase in funding, and eventually aiming at the creation of an influential EU military force.<sup>185</sup>

## 5.2 What Does the Future Bring?

The Trump presidency's withdrawal from multilateral policies introduced a difficult period in the transatlantic partnership. Although Biden's victory in the 2020 US

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<sup>180</sup> From a substantive point of view, this aligns with the continuous attempts to increase the strategic autonomy of the Union. For further information, see *Ibid*, 79.

<sup>181</sup> *Ibid*, 68.

<sup>182</sup> The budget set for ASAP amounted to €500mn for two years, which amounts to 0.02-0.04% of its 2021-2027 NGEU/MFF. For further information, see *Ibid*, 80.

<sup>183</sup> The Commission's original proposal included Article 14 which would allow it to compel a private company that would in turn produce military material needed for ASAP operations. It is clear that if this provision remained in the final draft, it would constitute a grave interference with private property rights, rights to freedom of enterprise, as well as the right to due process and defence. Although the Commission introduced several guarantees in line with the EU Charter of Fundamental Rights that would reassure economic undertakings, the final text did not include any such provisions. For more information, see *Ibid*, 81-82.

<sup>184</sup> *Ibid*, 69.

<sup>185</sup> European Parliament Resolution of 18 January 2023 on the Implementation of the Common Security and Defence Policy – Annual Report, (European Parliament Website, 2023), paragraph 34.

presidential elections conditioned Europeans to show some signs of relief due to his pro-European beliefs, not much has changed since.<sup>186</sup> What could the 2024 elections bring? Is decoupling from the US rewarding enough? And are flexible defence initiatives outside of the Union enough to compensate for it? There is only one way to discover.

### **5.2.1 The EU-NATO relationship: *Strategic Autonomy* or *Non-strategic Dependency*?**

The picture that the historical development of the CSDP painted throughout this paper uncovered the intensifying American unease with the idea of European strategic autonomy. The first major outbreak in European defence, and the starting point of this analysis – the failure of the EDC – established NATO as “the sole security institution in Western Europe.” As already mentioned, by certifying the US as the leader of the NATO alliance, this unsuccessful effort limited European integration purely to economic aspects.<sup>187</sup> Accordingly, the subsequent endeavours continued to be assessed against Washington-initiated policies. Three key behaviours in transatlantic partnership emerged at that time. Firstly, the US was “highly committed” to Europe as its “key theatre.” Secondly, it “expected” Europe to support the American position as the “unquestioned leader of the Western Alliance.” Thirdly, as NATO was the only organisation entrusted with responsibility over military affairs, Washington had “low confidence” in European defensive capabilities.<sup>188</sup>

Despite the emergence of a friendlier tone since the 2020 US presidential elections, Biden’s team displayed a continuity in core policies of Trump’s presidency, including the strategic competition against China. Although Biden emphasised the importance of democracy, alliances and international cooperation, the “honeymoon period” for transatlantic allies was rather brief.<sup>189</sup>

On the one hand, the post-Cold War great-power tensions have produced several structural factors that influenced the perception of the aforementioned behaviours. First,

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<sup>186</sup> G. Martin and V. Sinkkonen, *Past as Prologue? The United States and European Strategic Autonomy in the Biden Era*, (European Foreign Affairs Review, 2022), 99-100. From now on, I will refer to this source as *Ibid*.

<sup>187</sup> *Ibid*, 105-106.

<sup>188</sup> *Ibid*, 107.

<sup>189</sup> *Ibid*, 100-102.

having in mind the rapid growth in Chinese economic and military capabilities, it can be said that Europe was no longer the focal point of the US foreign policy. From this point of view, the US was starting to be ignorant of the European strategic autonomy, while directing its focus towards China.<sup>190</sup> Second, the ever-lasting primacy-restraint debate in the US reduced the confidence in the American leadership.<sup>191</sup> Therefore, European strategic autonomy became a reward for stepping in to fill in the absence of the US in international affairs, being considered a long-term asset rather than a threat.<sup>192</sup> Lastly, as discussed above, the intensifying crisis of liberal international order displayed more ambition when it comes to European collective defence overall.

On the other hand, the above points could be contested due to the previously analysed Ukrainian war. Its outbreak made the US re-engage in happenings on the European continent and highlighted the European military dependence on the US-provided security means.<sup>193</sup> The active NATO role in the Ukrainian conflict can also be seen through the decisions of Sweden and Finland to abandon their neutrality and join the Alliance. From this standpoint, it is obvious that what authors have rendered “a long-term trend in the US military footprint shrinking in and around Europe” has been temporarily reversed.<sup>194</sup>

Further difficulties arise when looking at the increasing overlap in EU-NATO membership. Denmark’s decision to abolish its 30-year-long opt-out from the CFSP two years ago meant that Baltic countries now belonged to both, NATO and CSDP defence cooperation. Moreover, there are also the practical troubles of the Turkish-Cypriot tensions that date back to the 2004 enlargement. Despite numerous cooperation agreements between the EU and NATO, Turkey refuses to share NATO’s strategic information with the EU, while Cyprus continues to block common European Defence Agency operations that include Turkey.<sup>195</sup> Such functional overlaps and political barriers

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<sup>190</sup> *Ibid*, 113-114.

<sup>191</sup> The primacy-restraint debate refers to the dilemma between the encouragement of the US hegemony over the world versus its drawback from international affairs through offshore balancing. For further information, see *Ibid*, 109-110.

<sup>192</sup> *Ibid*, 116-117.

<sup>193</sup> N. Helwig, EU Strategic Autonomy after the Russian Invasion of Ukraine: Europe’s Capacity to Act in Times of War, (*Journal of Common Market Studies*, 2023), 58-59.

<sup>194</sup> K. Engelbrekt, Beyond Burdensharing and European Strategic Autonomy: Rebuilding Transatlantic Security After the Ukraine War, (*European Foreign Affairs Review*, 2022), 383.

<sup>195</sup> M. E. Koppa, The Relationship between CSDP and NATO after Brexit and the EU Global Strategy, (*Foundation for European Progressive Studies*, 2019), 8.



between the two organisations make the possibility of a better-defined division of labour largely unfeasible.<sup>196</sup>

Lastly, it is important to note that NATO capabilities largely depend on the US military commitment. While a detailed analysis of the link between the US and NATO exceeds the scope of the present contribution, some of the previously mentioned points can be contested due to the uncertainty surrounding the 2024 US presidential elections. In the case of Trump's victory, further pursuit of the restrictive policies – ultimately leading to the American withdrawal from the Alliance – remains a possibility. To this end, the US redirection towards Europe could prove short-lived, thereby forcing decoupling and increasing the need for the expansion of the EU defence capabilities.

### **5.2.2 The Differentiated Integration Outside of the EU**

One of the most interesting contemporary initiatives aimed at strengthening the European defence capacity came from French President Macron in 2017. The distinctiveness of the EI2 was in the fact that, unlike the Joint Expeditionary Force suggested by Britain and the Framework Nations Concept proposed by Germany in 2014, this vision had no formal institutional ties with NATO. Instead, the EI2 was open to both, non-aligned, and non-EU countries. Thus, the 2017 proposal was not only centred on building strict EU-level security, but it embraced the long-lived French ambition of *l'Europe de la défense*, thereby fostering wider European defence capacity.<sup>197</sup>

Knowing the European integration history, including Macron's continuous effort to boost European defence integration and the recognition of France as the largest military actor within the EU, its leadership should not come as a surprise.<sup>198</sup> Much like the majority of

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<sup>196</sup> N. Helwig, EU Strategic Autonomy after the Russian Invasion of Ukraine: Europe's Capacity to Act in Times of War, (Journal of Common Market Studies, 2023), 59-60.

<sup>197</sup> P. Rieker, Differentiated Defence Integration Under French Leadership, (European Foreign Affairs Review, 2021), 110-112. From now on, I will refer to this source as *Ibid*.

<sup>198</sup> For instance, Macron argued that Europe and the US have "different worldviews that make European reliance on American international policy untenable." Such perception was also supported by other European leaders, including Angela Merkel who expressed that "the times in which we could completely depend on others are [...] over and that Europeans truly must take [...] fate into [their] own hands." For further information, see Interview Granted to Le Grand Continent Magazine by the French President Emmanuel Macron, (Élysée, 2020), Angela Merkel: EU Cannot Completely Rely on US and Britain Any More, (The Guardian, 2017), and *Ibid*, 114.

EU figures, President Macron and his advocates kept pushing for greater European strategic autonomy due to the fast-changing geopolitical climate.<sup>199</sup>

The idea was the following. If a more flexible form of integration could be introduced – one allowing the Member States to opt in or out of its framework – such differentiated integration would allow for greater pragmatism that would eventually strengthen the overall European capacity to act in security and defence matters.

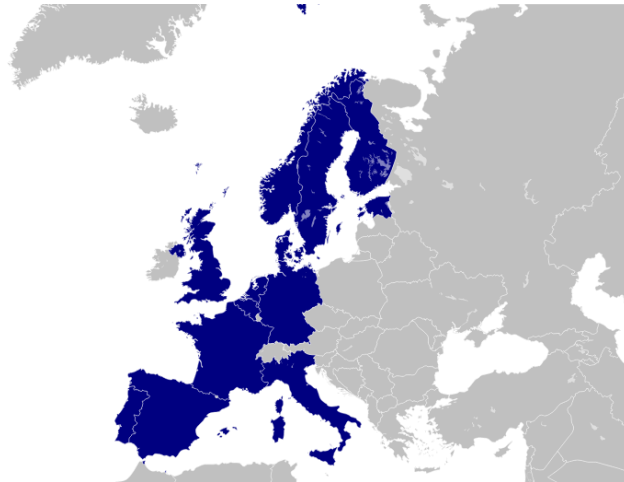


Figure 5.2. Map of the Member States that signed the European Intervention Initiative. Source: [https://en.wikipedia.org/wiki/European\\_Intervention\\_Initiative/media/File:EU\\_European\\_Intervention\\_Initiative\\_map.svg](https://en.wikipedia.org/wiki/European_Intervention_Initiative/media/File:EU_European_Intervention_Initiative_map.svg).

Rather than being seen as alien to the EU's ambitions, these flexible arrangements should be perceived as projects that foster other “long-term capacity-building efforts” within the Union. Therefore, the EI2 was envisioned as a “coalition of the willing”, ready to act under French leadership to assist similar projects that operate within the EU’s CSDP framework.<sup>200</sup>

Still, it is important to note that, according to Macron, a “shared strategic culture” was at the core of the EI2.<sup>201</sup> Although advocating for an additional creation of a European Intelligence Academy and a common intervention force, his focus rested on the establishment of a better foundation for the coalition in the first place.<sup>202</sup>

In fact, the most compelling aspect of the French approach is precisely its multidimensionality. As previously mentioned, France continues to advocate for the

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<sup>199</sup> *Ibid*, 115.

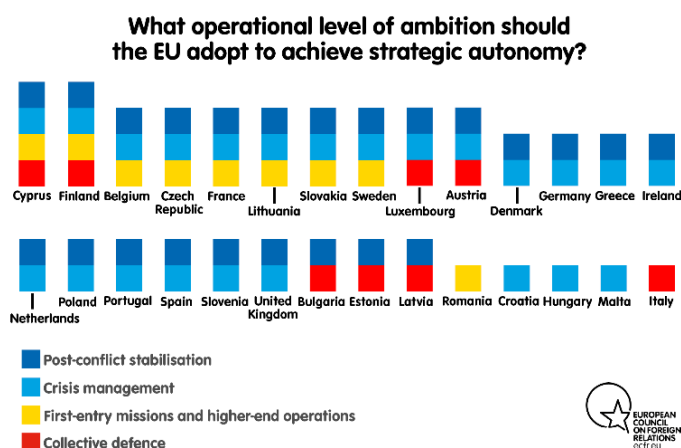
<sup>200</sup> *Ibid*, 112-114.

<sup>201</sup> In his 2017 Sorbonne speech, Macron shared the following: “What European defence lacks most today is a common strategic culture. Our inability to work together convincingly undermines our credibility as Europeans. We do not have the same cultures, be they parliamentary, historical or political, or the same sensitivities. And that cannot be changed in one day. But I propose trying, straight away, to build that common culture, by proposing a European intervention initiative aimed at developing a shared strategic culture.” For more details, see President Macron Gives Speech on New Initiative for Europe, (Élysée, 2017) and *Ibid*, 124.

<sup>202</sup> *Ibid*, 125.

greater strategic autonomy of the EU.<sup>203</sup> At the same time, it fosters close cooperation with Germany by respecting the Aachen Treaty, while also nourishing bilateralism of the Franco-British defence cooperation through the Lancaster House Treaties.<sup>204</sup> To this end, the differentiated integration method shows that the core of *l'Europe de la défense* evolved into a focus on creating European capacity “to act autonomously in response to crisis.” As long as this goal is reached, it has become less important whether such a possibility develops within or outside of the EU infrastructure.<sup>205</sup>

Still, several issues emerge at this point. Most notably, there is the well-known concept of constructive ambiguity that remains omnipresent in the majority of the EU documents. Being up to interpretation, it becomes obvious that the concept of *European* defence invokes different meanings to distinct actors.



While France was always amongst the most ambitious countries, often envisioning the development of a fully-fledged European army, most Eastern European nations tend to prefer limiting the concept of European defence to conflict prevention or crisis management.<sup>206</sup>

Figure 5.4. Independence play: Europe’s pursuit of strategic autonomy. Source: European Council on Foreign Relations. [https://ecfr.eu/special/independence\\_play\\_europes\\_pursuit\\_of\\_strategic\\_autonomy/](https://ecfr.eu/special/independence_play_europes_pursuit_of_strategic_autonomy/).

<sup>203</sup> In his 2019 Bastille Day speech, Macron stated that “the construction of a Europe of defence, in connection with the Atlantic alliance whose seventieth anniversary we are celebrating, is a priority for France.” For further information, see Macron Showcases Europe Military Prowess at Paris Parade, (The Local Fr, 2019) and *Ibid* 117.

<sup>204</sup> The 2019 Aachen Treaty strengthened Franco-German cooperation by extending its domain to the area of defence despite their conflicting strategic military cultures. Similarly, the 2010 Lancaster House Treaties formally established the defence and security cooperation between France and the UK. For more details, see *Ibid*, 123.

<sup>205</sup> *Ibid*, 117.

<sup>206</sup> On the 70<sup>th</sup> anniversary of the end of WW2, Macron argued that the European army would be an important step that would allow the EU to defend itself against big powers such as Russia and the US. Although this statement was considered far-fetched, after seeing how the situation played out since the beginning of the Ukrainian war and acknowledging the possibility of Trump’s victory in the 2024 US presidential elections, his ambition might sound more well-grounded. For more detail, see France’s Macron pushes for ‘True European Army’, (BBC News, 2018) and *Ibid*, 120.

After all, there is no guarantee that decoupling from the US would lead to European strategic autonomy, as long as there are internal divisions between the EU's 27. In part due to the previous claim, and partially due to different levels of political engagement and varying national perceptions, differentiated integration also yields diverse levels of compliance amongst Member States. Although this has not yet been an issue in the CSDP area due to its intergovernmental character, a push for greater integration could result in the creation of supranational structures that would intensify these differences in concurrence.<sup>207</sup>

### **5.2.3 Is Strategic Autonomy Still Relevant?**

Eventually, the evaluation of possible paths for the creation of a European army yields two most obvious answers. On the one hand, there is an option that takes us back to the starting point of this paper – a model that would resemble something similar to the fully supranational EDC. On the other hand, there is a possibility to continue operating with the use of voluntary EU Battlegroups, making the defence domain somewhat less formal and more intergovernmental, as envisioned by the EPC.

These two options can easily be presented as the two opposite ends of a spectrum. On one side, there is the ambition of seeing the EU as a military giant, bearing full responsibility for Member States' security. On the other, there is the push to conform to the status quo, taming the Union to its economic beginnings. Nevertheless, although maintaining separate national defence capabilities rather than founding an EU-funded common army is undeniably a less attractive alternative financially, it does not seem realistic that the Member States are willing to transfer their full defence sovereignty to the EU just yet. Similarly, even though the intergovernmental approach is already in place, the war in Ukraine highlighted the need for a more comprehensive, fast-responding framework that is not fully dependent on NATO resources.

To this end, a true enthusiast of strategic autonomy should fight against the common perception that the EU defence integration can go just one way or the other. There is a dire need to put these two extremes on weighing plates and balance the scale. This is where the third option comes into the picture.

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<sup>207</sup> *Ibid*, 121.

One of the main principles that has been guiding the Community since it came into existence is that of *uniformity*. It postulates that all Member States should reach a certain level of integration at the same time, much like it happened with the adoption of the founding treaties. To this end, the biggest obstacle to the formation of a European army – the diverging interests of the Member States – has been present ever since the foundation of the EDC. And since the 2004 big enlargement, the displayed divergence has never been more obvious. In this network of 27 participants, it seems like the principle of uniformity cannot be taken as a given anymore. However, as the EI2 initiative teaches us, to develop a common army is to develop a common ground in the first place. And without a common ground, there is not a lot of hope that the lack of political ambition can be compensated for.

Thus, the ideas of *differentiated integration*, *flexibility*, and *two-speed Europe* are becoming increasingly relevant and could be seen as the perfect middle ground in the CSDP domain.<sup>208</sup> In reality, the notion of European autonomous action, strategy, and decision-making was used for the first time when the Saint-Malo Declaration was adopted and envisioned even during the EDC era.<sup>209</sup> Beyond the mere definition of the term, these historical landmarks also uncover the strong tie between the EU's desired autonomy and its identity. If the Union continues to present itself as a common market instead of a great political power, the autonomy in question could remain bound by its own definition. Therefore, to become truly strategically autonomous, the EU will need to redefine its identity beyond economic matters.<sup>210</sup> Until then, the EU army project will stay “a tool of politics rather than a tool of defence.”<sup>211</sup>

However, there is some great news in this regard; the EU does not necessarily need to be alone in this process. It is essential to remember that the notion of strategic autonomy is *not* mutually exclusive to the EU-NATO partnership.

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<sup>208</sup> M. Trybus, *The Legal Foundations of a European Army*, (University of Birmingham Institute of European Law, 2015).

<sup>209</sup> Both of these milestones were analysed at length in Chapter One of this paper.

<sup>210</sup> M. E. Koppa, *The Relationship between CSDP and NATO after Brexit and the EU Global Strategy*, (Foundation for European Progressive Studies, 2019), 10.

<sup>211</sup> A reference to P. Morillas, *Juncker's EU Army: A Tool of Politics More than Defence*, (Opini3n Europa, 2015). For further information, see R. Hartwig-Peillon, *The European Army Project: The Answer to the Union's Strategic Shrinkage?*, (Europeum Monitor, 2022).

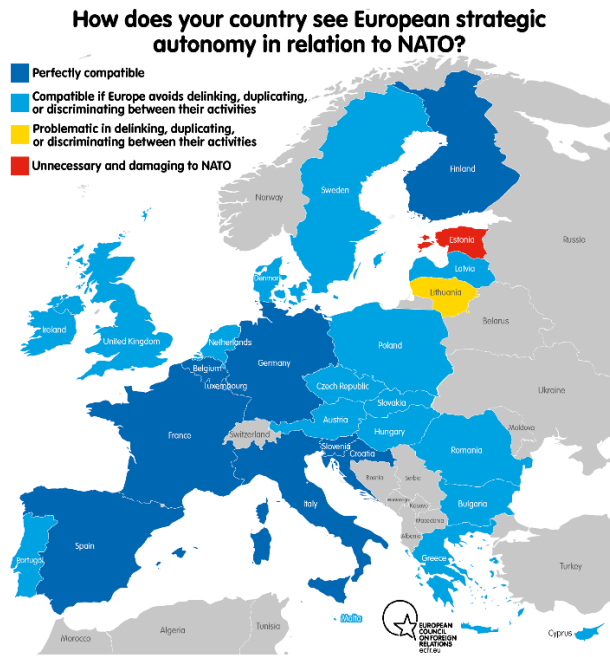


Figure 5.4. Independence play: Europe’s pursuit of strategic autonomy. Source: European Council on Foreign Relations. [https://ecfr.eu/special/independence\\_play\\_europes\\_pursuit\\_of\\_strategic\\_autonomy/](https://ecfr.eu/special/independence_play_europes_pursuit_of_strategic_autonomy/).

It is indisputable that individual preferences for Europeanism or Atlanticism will prevail no matter the circumstances. Nonetheless, this debate does not make strategic autonomy any less relevant today. Rather than becoming obsolete, the concept *stretched*. Strategic autonomy evolved to cover a broader scope of security debate, including health, cyber security, and industrial strategies – as seen in the case of EDIRPA and ASAP.<sup>212</sup>

Hence, instead of fostering the fears of decoupling and/or duplication, there is a need to capitalise on the strengths of both, the EU and NATO, and make up for their respective limitations. The equitable share of responsibilities, including the increase in the EU defence budget and the renewal of the American promise to sustain its nuclear deterrence in the light of emerging geopolitical crises seems like a reasonable step forward.<sup>213</sup> Rather than fully *abandoning* NATO as an organisation, the EU could aim at *Europeanising* it whilst lowering its dependence on the US.<sup>214</sup>

Ultimately, if envisioned as a tactic that could lead towards the establishment of the European army in the long term, strategic autonomy can be deemed the first concrete move along the way.<sup>215</sup> Unfortunately, at the time of writing, there is no guarantee that claims which way the Strategic Compass will show. However, a few things are certain:

<sup>212</sup> N. Helwig, EU Strategic Autonomy after the Russian Invasion of Ukraine: Europe’s Capacity to Act in Times of War, (Journal of Common Market Studies, 2023), 57.

<sup>213</sup> K. Engelbrekt, Beyond Burdensharing and European Strategic Autonomy: Rebuilding Transatlantic Security After the Ukraine War, (European Foreign Affairs Review, 2022), 399.

<sup>214</sup> M. E. Koppa, The Relationship between CSDP and NATO after Brexit and the EU Global Strategy, (Foundation for European Progressive Studies, 2019), 21-22.

<sup>215</sup> R. Hartwig-Peillon, The European Army Project: The Answer to the Union’s Strategic Shrinkage?, (Europeum Monitor, 2022).

1. As long as the Union is operating according to its founding principles, the debate between *intergovernmentalists* and *supernationalists* is unlikely to be settled.
2. The geopolitical climate is ever-changing, and the EU ought to learn how to swiftly react to such alternations. As the nature of security changes, the means of collective defence will alter as well.
3. Strategic autonomy does not equal complete isolation. To maximise the gains, the Union should foster its partnerships, while also developing its own identity.
4. Until a universal, one-size-fits-all approach is found, there will be no singular right answer to the issue of the European defence. Multidimensionality is the key – and the key is in our hands.

## Conclusion

Looking back at the starting point of this paper, the landscape seems much clearer now. The road that led to the development of the CSDP as we know it today showed that no integrational path is linear. The consolidation in the security and defence domain, much like in any other field tends to be rather unpredictable; sometimes unexpectedly dynamic, while at other times rather stagnant. On the one hand, although not always entirely fulfilled, the most ambitious proposals continue to serve as reminders that further integration remains a possibility. On the other hand, the steadier streams of CSDP ideas prove that revolutionary changes in sensitive domains do not have to take the form of a mind-blowing historical turning point.

The responses to numerous crises outlined that coordination between teammates is a prerequisite to a well-played game; and the only way to stimulate players' collaboration is by ensuring that their goals align. In the time of uncertainty that has taken over an increasingly globalised world, the development of common threats such as expanding environmental risks, growing economic divides, and – after all – new security threats fuelled by geostrategic shifts and high-speed technological acceleration, has precisely this function.<sup>216</sup> Rather than adhering to the trend, increasing divisions should foster greater unity by highlighting the importance of the relationships between the Member States, the Union and its long-term partners.<sup>217</sup>

Ultimately, to answer the question posed in the introduction to this paper, *there is no right way forward*. But that does not mean that progress is not an option, quite the contrary. In the school of European security, history teaches us much more than past events. It shows that despite all categorisation, our thinking can never be limited by a box. Thus, our task is to learn from each of the analysed common defence projects and combine that knowledge into a multidimensional approach that breaks the traditional dichotomy between intergovernmental and supranational views of European security.

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<sup>216</sup> In the 2024 Global Risk Report, the above-mentioned threats have been identified as “the most severe risks we may face over the next decade.” For further information, see Global Risks Report 2024, (World Economic Forum, 2024), <https://www.weforum.org/publications/global-risks-report-2024/>.

<sup>217</sup> Although this paper does not evaluate the impact of the risks that are not directly related to security and defence, such an assessment could be a particularly interesting starting point for further research that could complement the findings of the present contribution.



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