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KOMUNITARIZACIJA OBRAMBNE POLITIKE EVROPSKE UNIJE

THE COMMUNITARIZATION OF THE EUROPEAN UNION'S DEFENCE POLICY

Povzetek   V prispevku se zagovarja teza, da postopni koraki, začeti z institucionalnim okvirom, ki ga je postavila Lizbonska pogodba leta 2009, prek sprejetja Globalne strategije Evropske unije leta 2016 do nedavnih političnih pobud in vpeljanih mehanizmov ter njihove implementacije na področju obrambne politike, omogočajo komunitarizacijo te politike. Prek izkušenj, številnih političnih pobud in njihove uspešne implementacije ter zavedanja o sodobnih geopolitičnih spremembah s tradicionalnimi in novimi varnostnimi grožnjami se lahko počasi ustvarja politična volja držav članic. Ta je potrebna za proces komunitarizacije, ki dolgoročno lahko vodi k oblikovanju Evropske obrambne unije.

Ključne besede   *Obramba politika, Evropska unija, komunitarizacija.*

Abstract   This paper argues that incremental steps, beginning with the institutional set-up framed by the Lisbon Treaty in 2009, through the adoption of the EU Global Strategy in 2016, to recent policy initiatives, endorsed mechanisms and their implementation in the field of defence, are paving the way towards its communitarization. The political will of Member States could be gradually generated through experience, through a number of policy initiatives and their successful implementation, and through the awareness of the contemporary geopolitical changes with traditional and new security threats. The process of communitarization is dependent on the Member States' political will, and could eventually lead towards building a European Defence Union.

Key words   *Defence policy, European Union, communitarization.*

Introduction   The terrible experiences and memories of the two World Wars have long been a sufficient reason for the European communities to maintain the character of a »civilian power« (Duchêne, 1973),[1] focused on multilateral and economic co-operation. Europe has rested on the traditional principle of »Westphalian sovereignty« over the most sensitive and vital areas of its Member States, which included defence policy.

However, it would be wrong to assume that the European States were not interested in having a strong common defence policy. In fact, there was an early attempt to establish the European Defence Community in the early 1950s, in order to create a lasting peace through military integration, but the treaty establishing the European Defence Community never entered into force. Nevertheless, the idea of a common defence policy remained dormant but not forgotten. The Common Security and Defence Policy (CSDP),[2] the acronym used in the Treaty of the European Union (TEU) once the Lisbon Treaty entered into force in 2009, has been slowly and gradually built. Over time the European Union (EU) has increased its cooperation in the field of defence policy. Indeed, it can be argued that this policy has come a long way since its inception.

In recent years, an enormous emphasis has been put on the EU's defence policy. The numerous weaknesses that hamper its improvement and stand as obstacles in the way of a European Defence Union have often been stressed: for example, insufficient operational or military commitment, few collaborative procurement projects, the reluctance of Member States to pool sovereignty in defence, divergent perceptions of the security threat and national preferences, and perhaps the (ab)use of the consensus or unanimity principle (e.g. Engberg, 2021, p 1; Zandee et al., 2020, p 12). Nevertheless, political events and worrisome developments in the EU's neighbourhood and in the world have yet again served as an impetus to enhance its defence dimension and its credibility in the international community.

There is an abundance of doctrinal research in this field. Whereas in the last decade some scholars researched the influence of Member States or their political will in the area of defence (e.g. Hoeffler, 2012; Weiss, 2020; Béraud-Sudreau and Pannier, 2021), others focused on the institutional aspects and the role of different EU institutions

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[1] *The term »civilian power« was originally coined by Duchêne (1973). A civilian power could be depicted as a state that pursues its foreign and national objectives primarily through political and economic means. It is committed to multilateral co-operation and international law. For more on the (contested) image of the EU as a civilian power, see, for example, Lodge, 1996; Smith, 2000, pp 11-14. See also Maull's redefined concept of a civilian power which encompasses the possibility of a resort to military force, but only if necessary and if all peaceful means have been exhausted (Maull, 2000).*

[2] *For clarification purposes, the concept of security combines a »soft« power policy, focusing on the promotion of peace and security by non-military tools, and a »hard« security policy focusing on conflict resolution, peacekeeping and peace monitoring, where military force may be used if necessary (Nugent, 2003, p 420). The notion of defence, on the other hand, is narrower and focuses on military activities and the deployment of military force (Feld, 1993, p 4). Hill pointed out the difference: »The purpose of the [Foreign and Security Policy] is a longer-term conflict prevention, whereas the [Security and Defence Policy] serves for a possible intervention when prevention fails« (Hill, 2001, p 322). This paper focuses mainly on the notion of defence and »hard« security policy.*

in this process (e.g. Nissen, 2015; Reykers, 2019; Chappell, Exadaktylos, Petrov, 2020; Engberg, 2021; Håkansson, 2021). Some scholars observed that the role of the European Commission in EU defence policy has increased (Peterson, 2017; Nugent and Rhinard, 2019; Håkansson, 2021). This paper argues that incremental steps, beginning with the institutional set-up framed by the Lisbon Treaty in 2009, through the adoption of the EU Global Strategy in 2016, to recent policy initiatives and endorsed mechanisms in the field of defence, have paved the way towards the communitarization of this policy. This could, consequently, lead to a true European Defence Union should there be enough (internal and external) incentives and challenges, but also, and most importantly, the political will of the EU Member States.

From the conceptual point of view, communitarization signifies a process where the »Community Method« (Dehousse, 2011) prevails. The supranational institutions (in particular the European Commission and the European Parliament) are thus more involved in the decision-making and their influence is enhanced. Moreover, the decisions are adopted by a (qualified) majority so that a closer relationship between the EU's institutions is required, and the dominance of one or a few Member States can be avoided (see also Nusdorfer and Vatovec, 2003, pp 44-46). Such a process, as argued elsewhere (Nusdorfer and Vatovec, 2003, p 45), results in a coherent, transparent, democratically legitimate and efficient functioning of a policy.

The paper is structured in five parts. First, several characteristics of the EU's defence policy are listed. The second part presents a brief overview of the development of this policy, and to a greater extent deals with the institutional framework adopted by the Lisbon Treaty in this field. The next part underlines some major developments from 2016 onwards, to show the preparedness for the creation of the European Defence Union. It thus focuses on crucial steps that have been taken in recent years in order to enhance this policy field. The fourth part sheds light on some proposals concerning the future enhancement of the EU's defence policy. In the conclusion the paper tries to anticipate what the future will bring in this policy field by stressing the importance of the existent »triangle« (institutional framework, shared or at least »harmonized« vision and preferences, political initiatives) and elements of communitarization in order to move towards a true European defence union.

This paper does not attempt to be comprehensive in addressing the evolution, strengths and shortcomings of EU defence policy, or the possibilities of its future development. Its aim is to contribute to the ongoing debate about the future of this policy and to the vast endeavour of creating a European Defence Union.

1 SOME PECULIARITIES OF EU DEFENCE POLICY

The EU's defence policy is a reflection of a never-ending »capability-expectations gap« (Hill, 1993; Hill, 1998) between the proud rhetoric with which the EU launched the defence policy, and its lamentable performance in terms of the lack of military

and technological capabilities and modest defence expenditure. There is probably no other EU policy that is subject to such dichotomy between theory and practice, »between ambition and paralysis« (Kintis, 1999), between aspirations on the one hand and the reality of differing national preferences, different priorities and individual interests on the other (see e.g. Menon, 2011, p 136).

The defence policy is perhaps a rare EU policy where (internal and external) crises function as an impetus to strengthen the defence dimension, but national preferences are often too strong and allow only incremental steps to be taken. At one end of the spectrum, mainly larger Member States focus on intergovernmental co-operation in the field of security and defence. They are reluctant to lose sovereignty over these highly sensitive and vital areas. At the other end, mostly smaller Member States maintain their wishes and (nationally backed) interests in a supranational role of defence. Permanent clashing between these two main stances either makes the EU incapable of taking decisive common action, or slows its progress and prolongs decision-making. Divergences stemming from different cultural backgrounds, traditions, and historical experiences are preventing the development of a »common security culture«, defined by Gnesotto (2000, p 1) as »the aim and the means to incite common thinking, compatible reactions, coherent analysis – a short, a strategic culture that is increasingly European, one that transcends the different national security cultures and interests«. Or as other commentators observe: »On paper, all actors involved have agreed on the need to promote a comprehensive approach in crisis management – meaning a joint and global analysis of the crises, a common assessment of the situation, a more collective effort on the ground, as well as improved situational awareness and assessment of results« (Angelet and Vrailas, 2008, p 6). However, it is practice (with either institutional rivalry or differences in interests, priorities or military means of Member States) that is lacking (e.g. Menon, 2011, pp 141-142).

This initial outlook is certainly not in line with popular demand. For years, strengthening the EU's defence dimension has commanded strong support in public opinion. The latest Eurobarometer survey, conducted in summer 2020, indicated that 77% of Europeans support the efforts to develop a CSDP policy in the EU (Standard Eurobarometer 93, 2020, p 113). In fact »since 2004, when this indicator was introduced, proportions are relatively stable with variations fluctuating between 71% and 78%« (Standard Eurobarometer 93, 2020, p 117). Even the coronavirus pandemic has not changed the very high support for this policy. The expectations, and indeed the demand, of EU citizens can hardly be ignored. They must be considered as a reference point for the EU institutions and national politicians to do their best to deliver on such expectations.

2 INSTITUTIONAL FRAMEWORK OF THE EU'S DEFENCE POLICY

It became obvious that the EU's defence policy needed to develop after the inadequate performance of the EU (then the European Community) in dealing

with the devastating war in Yugoslavia. It was then that the EU's civilian character began to be seriously contested. Two subsequent European Council summits in 1999 reached landmark decisions: at the Cologne Summit in June 1999 the European Council decided to give the EU »the necessary means and capabilities to assume its responsibilities regarding a common European policy on security and defence«, so that the EU could acquire »the capacity for autonomous action, backed up by credible military forces« (European Council, Cologne, 1999, Annex III, p 33, para 1). However, as Bono (2002, p 34) observed, the Summit failed to define the political and military doctrine to guide those forces. Building on the guidelines established at the Cologne European Council, the Helsinki European Council created a Rapid Reaction Force of up to 50,000-60,000 personnel able to be deployed at 60 days' notice (European Council, Helsinki, 1999, para 28). The EU Member States were to generate military forces capable of carrying out the Petersberg tasks (European Council, Helsinki, 1999, para 28). The EU's objective was to have »an autonomous capacity to take decisions and, where NATO as a whole is not engaged, to launch and conduct EU-led military operations« in response to international crises« (European Council, Helsinki, 1999, para 27).

The Cologne and Helsinki Summits gave a profound emphasis to building a credible EU military capability (Yesson, 2001, p 205). Notwithstanding the Member States' divergent views on how military means should be developed, and what the relationship between military and political tools should be, a crucial step was taken towards the future development of a credible security policy backed up by an efficient military dimension.

The process of creating the EU's defence policy became irreversible. Although scholars interpreted the outcome of the Nice European Council Summit differently (see Duke, 2001, and the opposing view Bono, 2003), it can be argued that yet another step forward was taken. The French Presidency Report in 2000 determinedly stressed the need »to give the EU the means of playing its role fully on the international stage and of assuming its responsibilities in the face of crises by adding to the range of instruments already at its disposal an autonomous capacity to take decisions and action in the security and defence field« (European Council, Nice, 2000, Annex VI). The military and political structures in the EU were created, namely the EU Military Committee, the EU Military Staff, and the Political and Security Committee (Council Decisions, 2001).

After that the debate on the EU's defence policy progressed, and was given much attention during the negotiations that led to the Lisbon Treaty. This Treaty brought some important institutional innovations worth reiterating because of their impact on the defence policy. For example, the common foreign and security policy (as well as the defence policy) has been empowered by the establishment of the European External Action Service (Article 27(3) TEU). The High Representative of the Union for Foreign Affairs and Security Policy chairs the Foreign Affairs Council and at the same time occupies the post of Vice-President of the European Commission

(in particular Articles 18 and 27(1) TEU). The mutual assistance clause, which is determined in Article 42(7) TEU, obliges Member States to aid and assist a victim Member State in the case of armed aggression. The introduction of a solidarity clause enables Member States to prevent terrorist threats or respond to terrorist threats or natural or manmade disasters within the EU by mobilizing all the necessary military and civil instruments (Article 222 TFEU).

An important instrument to overcome possible blockages in the field of military capabilities is the Permanent Structured Cooperation (PESCO). Member States whose military capabilities fulfil higher criteria and that have more binding commitments to one another in this area can intensively cooperate within the EU's framework by establishing PESCO (Article 42(6) TEU). As Angelet and Vrailas (2008, p 33) observe, PESCO is »more flexible than enhanced cooperation«, because there is no minimum quorum of participants required, no threshold fixed for entrants and no exclusions, as any Member State can participate even at a later stage. Its participation is voluntary.

Commentators have differed in their findings as to how these Lisbon Treaty innovations changed the defence policy. Their analyses ranged, as Menon (2011, p 134) put it, »from the clinically depressed to the massively optimistic«. According to Menon (2011, p 134), the Lisbon Treaty failed to address »the fundamental challenge confronting CSDP: the reluctance of Member States to take their responsibilities seriously«. This was an argumentative stance taken in 2011, when several of these Treaty provisions were in practice used either rarely or never. But recent years have shown that the challenges are many and varied, the threats have increased, perceptions have differed less, and the preferences have been harmonized to such an extent that the strengthening of the EU's defence policy has been possible.

3 »HARMONIZED« VISION AND DEFENCE POLICY INITIATIVES

What constitutes threats and dangers, both within Europe and outside of it, has for a long period had no unanimous answer. Menon (2002, p 2) rightly pointed to the fact that in such a sensitive area as defence »a clear definition of ends is crucial in order to create appropriate policy instruments«. A clear and common understanding of the security threats is thus important (de Vasconcelos, 2009, p 18). The document that tried to unify Member States' security concepts was the European Security Strategy, adopted by the European Council in December 2003. Its »father«, Javier Solana, occupying the post of the High Representative, commented that this document would provide »a road map for the EU to play a role of a strategic partner in the world« (Beatty, 2003). For the first time, a comprehensive strategy was adopted, with global challenges, key threats and strategic objectives for advancing the EU's interests. Terrorism, the availability of weapons of mass destruction, regional conflicts, the weakening of the state system, and organized crime were considered as key threats (European Security Strategy, 2003, pp 5-7). Its initial paragraph stated:

»Europe has never been so prosperous, so secure nor so free. The violence of the first half of the 20th Century has given way to a period of peace and stability unprecedented in European history« (European Security Strategy, 2003, p 3).

Thirteen years later, in 2016, which was depicted by Lazarou (2019, p 28) as »a landmark year for the EU's approach to peace and security«, the EU laid out the EU Global Strategy. Compared to the European Security Strategy, the opening sentences of the EU Global Strategy showed a more complex situation, recognized the intensity of the threats, and offered a shared vision of the EU:

»We live in times of existential crisis, within and beyond the European Union. Our Union is under threat. Our European project, which has brought unprecedented peace, prosperity and democracy, is being questioned. To the east, the European security order has been violated, while terrorism and violence plague North Africa and the Middle East, as well as Europe itself. Economic growth is yet to outpace demography in parts of Africa, security tensions in Asia are mounting, while climate change causes further disruption. Yet these are also times of extraordinary opportunity […] Grounded in the values enshrined in the Treaties and building on our many strengths and historic achievements, we will stand united in building a stronger Union, playing its collective role in the world« (EU Global Strategy, 2016, p 13).

As Engberg (2021, p 5) illustrated, there are »harsh realities« that separate these two strategies. The EU's geopolitical context has changed in the last decade. Unstable neighbouring regions; multiple traditional security threats in a challenging environment; emerging new threats such as cyber attacks on critical infrastructure and hybrid attacks; persistent or even aggravated conflicts; and disruption caused by climate change and energy insecurity are several challenges that the EU faces (Bassot, 2020, p 105; Engberg, 2021, pp 8-9; EU Global Strategy, 2016; Regulation (EU) 2021/697, first recital). Moreover, the coronavirus pandemic has shown, as analysts argue, that the EU defence policy is needed because »investment in military preparedness, equipment and training can pay off when a crisis hits, as capabilities to protect citizens can be deployed in multiple scenarios, from CSDP missions to repatriation and to building hospitals« (Lațici, 2020, p 8).

In response to this challenging security environment since the adoption of the EU Global Strategy, »significant progress« (Mills, 2019, p 5) has been made in the field of the defence policy. The EU has adopted or pursued a number of new and noticeable policy initiatives by using the potential of the institutional framework adopted by the Lisbon Treaty (e.g. Béraud-Sudreau and Pannier, 2021), although, as noted by the study of the European Research Service, there are still some »unused or under-used legal bases« of the TEU in this policy (Bassot, 2020, pp 8-9, 24-25).

Subsequently, in December 2016, the European Council discussed a defence package and urged all relevant actors to speedily and actively pursue the work on enhancing

the defence policy (European Council, 2016, paras 10-15). The adopted initiatives were the following: the Council established the Military Planning and Conduct Capability (MPCC) with the aim of serving as a command and control structure for the EU's non-executive military missions (Council Decision (EU) 2017/971); the Coordinated Annual Review on Defence (CARD) was approved by the Council in order to foster capability development and provide for a greater coherence of defence spending plans; and PESCO has been activated (Council Decision (CFSP) 2017/2315) and has proved its inclusive and modular nature by welcoming 25 participating Member States that want to take part in individual defence projects (Council Decision (CFSP) 2017/2315, Articles 2, 5, Annex I, II). These projects are listed on the PESCO website and include, *inter alia*, a European Medical Command; the creation of the European Logistic Hubs; the upgrade of the Maritime Surveillance System; and the establishment of an information-sharing platform with the aim of strengthening nations' cyber-defence capabilities.

The Council and the European Parliament established the European Defence Industrial Development Programme (EDIDP) with the aims of fostering collaborative defence capability development and reinforcing the competitiveness and innovation capacity of the Union's defence industry (Regulation (EU) 2018/1092). The European Peace Facility was set up in order to finance the EU's actions to preserve peace, prevent conflicts and strengthen international security through EU Member States' contributions (Council Decision (CFSP) 2021/509). The EU is also increasing its engagement with industrial innovation by establishing the European Defence Fund »to foster the competitiveness, efficiency and innovation capacity« of the EU's defence industry (Regulation (EU) 2021/697, Article 3(1); see also Oliveira Martins and Mawdsley, 2021, p 11).

In June 2020, the Council decided to work on the Strategic Compass, which »will enhance and guide the implementation of the Level of Ambition agreed in November 2016 in the context of the EU Global Strategy« (Council of the European Union, 2020, para 4). The work began in the autumn of 2020 by the German Presidency and should be finished during the French Presidency in 2022. As analysts noted, the preparation of the Strategic Compass and its timeframe »might point to a Paris-Berlin ˹deal' to take an important next step in defining the future course of EU security and defence« (Zandee et al., 2020, p 24). What the outcome will be is still too soon to predict. Due to possible »disunity within the EU on the military level of ambition« (Ibid., p 24), it might be doubtful whether the Strategic Compass will provide a common understanding of threats, objectives and concrete goals (Engberg, 2021, p 13). The Strategic Compass should probably avoid either extensively encompassing all possible security and defence threats, challenges and goals (thus being too broad to be useful) or just mentioning those that are shared by all Member States (in which case it would be nothing more than the lowest common denominator).

4 SOME PROPOSALS FOR THE FUTURE

The policy initiatives mentioned in the previous part are recent progressive steps that the EU has taken towards building a common defence policy.

In June 2017, the European Commission began a public debate on the future of the CSDP by publishing a reflection paper and setting out scenarios on how to address the threats facing the EU (European Commission, 2017). It offered three visions of the EU's defence policy from the largely *status quo* security and defence cooperation, to upgraded shared security and defence (where Member States pool certain financial and operational assets in defence), to the most ambitious level of common defence and security, where the EU develops its capacity to run military operations, has a common strategic culture, and paves the way to the European Defence Union (European Commission, 2017, pp 12-15).

Should there be a shared political will, visible by unanimity in the European Council, the European Defence Union could be created within the established legal framework (Article 42(2) TEU). At the current state of affairs, such political will of Member States has not yet been attained, but the incremental steps that have already been taken, discussed above, and the implementation of the aforementioned policy initiatives and the results they obtain could help generating that political will.

There are, however, several proposals and possibilities to further enhance this policy field. These proposals stem out of discussions on the future of the defence policy.

One symbolic, but also practical, proposal, which could improve the efficiency, coherence and coordination of decisions implementing the CSDP, affects the functioning of the Foreign Affairs Council under which the Defence Ministers currently operate. The idea to set up a permanent Council of Defence Ministers chaired by the High Representative should get proper attention, and has been reiterated in debates (European Parliament Resolution, 2017, para 22; European Parliament Resolution, 2019, para 42; Angelet and Vrailas, 2008, p 5; Engberg, 2021, p 40). By establishing a separate Council of Defence Ministers the Council could follow the European Commission's creation of a new Directorate-General for the Defence Industry and Space (DG DEFIS) which emerged under the Commissioner for the Internal Market.

The EU's defence policy has had questionable democratic scrutiny, although, as has been observed, it is a popular demand to have more of a common defence policy. The parliamentarian dimension should be enhanced when discussing or adopting decisions in this policy field, evaluating this policy or controlling its implementation (see European Parliament Resolution, 2017, paras 35, 37; European Parliament Resolution, 2019, para 42).

The next proposal concerns the voting mechanism. Although the Lisbon Treaty removed the pillar structures and qualified majority voting in the Council become the rule rather than the exception, the common foreign and security policy (with the defence policy as its integral part) is still »subject to specific rules and procedures« (Article 24(1) TEU; see also Article 42(1) TEU). Decisions in the CSDP are currently taken on the basis of unanimity, which is often an insurmountable obstacle towards a common defence policy, as it signifies that each Member State has a veto power. An important move away from intergovernmental decision-making would thus be to take decisions by qualified majority. The European Commission has already suggested the enhancement of the use of qualified majority voting in the area of external relations (European Commission, 2018a, p 10; European Commission 2018b, p 11). However, the specific exclusion of qualified majority voting for decisions having military and defence implications in Article 31(4) TEU means that a treaty change would be required for the realization of this proposal (Zandee et al., 2020, p 13).

These proposals have not yet been properly addressed, but their implementation could help in communitarizing the EU defence policy.

Conclusion

Since its inception, the EU defence policy has been characterized by intergovernmentalism, where supranational EU institutions have a limited role and decisions are taken by unanimity. The communitarization of an EU policy, on the other hand, implies greater involvement by supranational institutions, mainly the European Commission, but also the European Parliament, representing EU citizens; the scrutiny of the European Court of Justice; a common budget; and the vast majority of decisions taken by qualified majority. Defence is a very delicate field, sustained in the hands of sovereign EU Member States. Their political will is required for further progress in this policy field.

However, we argue that a workable legal and institutional framework and functional operational and financial system could stimulate and gradually generate such political will. As have been pointed out, in recent years the EU has pursued many policy initiatives and intensified the functioning of its defence policy. The European Commission has not only repeatedly urged for a strong EU defence, pursued many defence policy initiatives and created a new Directorate-General, it is also in charge of implementing these initiatives (e.g. Action Plan on Military Mobility, the European Defence Fund). We can agree that the involvement of the European Commission in the defence policy, which is close to national sovereignty, blurs the traditional boundaries between intergovernmental and supranational decision-making (Håkansson, 2021, p 15; see also e.g. Nissen, 2015; Chappell et al., 2020).

The future of the European Defence Union remains in the hands of Member States and intergovernmental decision-making. Nevertheless, the existence of a workable institutional framework, many implemented policy initiatives, and striving for a harmonized vision by strategic documents speak in favour of the strengthened EU's defence policy. Incremental changes pave the way towards its communitarization by

gradually generating the political will of Member States through experience, through a number of policy initiatives and their successful implementation, and through the awareness of the contemporary geopolitical changes with traditional and new security threats.

Acknowledgement

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