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Collective defence in Europe:
What place for the EU?

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BRIEF SUMMARY

Collective defence is the cornerstone of Europe's security architecture, anchored in NATO's Article 5 stating that an attack against one ally is an attack against all. With the deteriorating security environment in Europe, questions have been asked about whether, and if so how, the EU's clause on mutual defence – article 42(7) of the Treaty on European Union – could be operationalized and perhaps be a supplement to NATO's article 5 as a guarantor of collective defence in Europe. The debate is driven by perceived limits in NATO's ability to deal with hybrid threats, the broader implications of Russia's war on Ukraine, and the necessity for European states to take more responsibility for their security. For EU member states to succeed with its collective defence obligations within the union, political will, legal interoperability with NATO and capability development should be addressed further.

Introduction

Collective defence in Europe rests on NATO providing a credible deterrent and the securities provided in Article 5 in the North Atlantic Treaty: 'an armed attack against one or more of them in Europe or North America shall be considered an attack against them all'. Yet despite an increasing focus on Europe's need to take more responsibility for its own security, the term collective defence is seldomly used when discussing initiatives taken in the EU. Illustrative of this, the EU's standard disclaimer on texts relating to defence initiatives states that they are "complementary to NATO, which remains, for those states that are members, the foundation of their collective defence."

This policy brief discusses opportunities and limitations related to the EU in the collective defence of Europe. Most EU member states are dependent on the US' security guarantee, and its commitments in NATO to uphold a

credible collective defence system. Finland and Sweden's applications for NATO membership underlines this fact. The EU is pursuing increased strategic autonomy, by which the Union means the ability to pursue its own interests independent of other states. While EU level defence initiatives contribute to collective security in Europe, it is less obvious how the EU contributes to collective defence in a strict sense. Considering emerging threats, however, the EU's current and potential contribution to the collective defence of Europe has increasingly been scrutinized.

Current geopolitical trends including the US' pivot to Asia, a re-emerging importance of territorial defence in Europe, hybrid threats, and increased bi-, tri-, and multilateral initiatives makes it worthwhile to consider whether there is need for a rethinking of collective defence commitments in Europe, and whether such a framework might grow out from recent developments. How has recent developments in EU defence cooperation contributed to European collective defence? And what would it take to carve out a stronger collective defence role for the EU?

The legal basis of collective defence in Europe

The established legal basis for collective defence in Europe consists of three clauses, NATO's Article 5 and two clauses in the EU treaties. In addition to NATO's well-known collective defence clause, the legal framework for European collective defence is enshrined in two EU treaty articles: The mutual assistance clause (Art. 42(7) TEU) and the solidarity clause (Art. 222 TEU). The mutual assistance clause states that if an EU state is the victim of armed aggression on its territory, the other member states have an obligation to provide aid and assistance by all the means in their power. The solidarity clause holds that member states shall act jointly in a spirit of solidarity if a member state is the object of a terrorist attack or the victim of a natural or man-made disaster.

Article 42(7) has been invoked once, by France. The French decision to invoke the mutual assistance clause following the wave of terror attacks in the country in 2015 was not a given; it could have called upon its NATO allies for support much like the US did for the first time after the 9/11 attacks in 2001. Or, it could have referred to Art. 222 which was developed for this very purpose. Generally, what legal articles to invoke in the case of armed attack (NATO wording) or armed aggression (EU wording) is a question of both political and legal considerations. Thus, while the principle of collective defence is stable and intuitive, the benchmarks for collective defence – or the operationalization of the concept – is not. As the perception of threats and the geopolitical landscape changes, so does the ongoing consideration of what measures are appropriate to fulfil legal obligations for collective defence. However, a pure legal discussion is not sufficient to understand the EU's role in collective defence. For one, there are political considerations at work. But it is also dependent on a changing threat picture with new forms of threats that the EU can respond to.

A changing context for collective defence

In 2020 and 2021, the Norwegian parliament was the site of two cyberattacks in which personal data from elected politicians was leaked to foreign agents with what can only be assumed to be malicious intent. This resulted in Norway's first ever attribution of a cyberattack, as the Norwegian government stated officially that it had information about Russian origins. In 2023, the US identified and shot down several objects hovering at the border of space, as they expected them to be used for espionage. China admitted to owning the most famous of these objects, the giant balloon, but insisted that it amounted to no more than a weather balloon that had veered off course. What these two incidents have in common, is that they are security incidents in allied states sharing collective security among them, but where the legal and political space for response is uncertain.

NATO's definition of collective defence was very much tied to conventional defence from its inception. Armed attacks were considered kinetic in nature and taking place in the traditional military domains. Today's threat picture is much more complex and hybrid in nature. Cyber operations challenge information security and critical infrastructure, and this even extends to outer space where so much critical infrastructure in the digital age resides. All this complicates the notion of collective defence, as previously established understandings of armed attacks do not suffice to cover contemporary threats, and the nature of these threats makes attribution more difficult. Who would one be collectively responding to if the perpetrator of the attack is unknown? Because the EU has a range of different policy tools available in addition to the military tools that NATO has at its disposal, a comprehensive rethink of the Euro-Atlantic collective defence system could integrate both NATO and the EU under the collective defence agenda. In addition to emerging threats, this also includes capability development that make indirect contributions to NATO deterrence.

Recent advances in EU defence

A range of recent initiatives in EU defence contribute with indirect contributions to collective defence in Europe. With the publication of a new global strategy in 2016, the EU raised its level of ambition on security and defence. A range of developments have been emerging to this end. As part of the raised ambition, several tools were set up, notably a Coordinated Annual Review on Defence (CARD), Permanent Structured Cooperation (PESCO), a revised Capability Development Plan (CDP) and, most recently the Strategic Compass was published. It could be argued that these initiatives contribute to signalling. The EU is particularly active in signalling its *ambitions* in defence policy. Ever since the turn of the millennium there has been ongoing processes with a stated ambition to deliver on security and defence, for instance with the Helsinki Headline Goals. The EU is active in signalling in responding to the changed geopolitical realities as well. The 2016

Global Strategy published only days after the Brexit referendum in the UK launched a range of new initiatives based on a new concept of *strategic autonomy* as well as *principled pragmatism*, a signalling of the EU moving from being mostly a soft power towards combining that power with more use of force whenever deemed necessarily. However, EU signalling falls short of building a credible deterrent, neither is it the intention.

Given that the EU has not fully operationalized its legal basis for collective defence nor aim to provide a credible deterrent in the shadow of NATO, its efforts could rather be seen as indirect contributions to collective defence. For instance, building resilience in cyber space is an imperative task for collective defence in the contemporary context even though its remit often falls below the collective defence threshold. Responding to hybrid and digital threats, the EU launched in 2020 a new Cyber Security Strategy, aiming to build *digital sovereignty* in Europe to safeguard a global and open internet, while at the same time offering safeguards, not only to ensure security but also to protect European values and the fundamental rights of everyone. The Cyber Security Strategy is part of *Shaping Europe's Digital Future*, the European Commission's *Recovery Plan for Europe* and of the *Security Union Strategy 2020-2025*. At the same time, a range of initiatives have been taken to not only signal but protect the EU in cyber space such as the 5G Toolbox, a Joint Cyber Unit, and an Action Plan against Disinformation.

Capability development outside of NATO structures can also contribute indirectly to European collective defence. In Europe, where defence spending has been lagging, national preferences for procurement and capability development have been limiting the range and scope of collective defence. The European Commission has been pointing to this for a long time by comparing the EU's defence architecture with that of the US. Yet a fair amount of progress in this area has been made in recent years. Here, developments within the EU are worth mentioning.

In 2017, 25 member states of the EU enabled PESCO, a possibility in the Treaties for member states to go forward with different defence integration projects in a differentiated way. Only UK (now out of the EU), Denmark (due to its opt-out) and Malta did not join. Until now, more than 50 projects of variable size have been launched, and more will follow. These will also deliver variable contributions in terms of collective defence, but notably the *Military Mobility* project will remove administrative barriers to cross-border military transport procedures, making it easier to transport military equipment and personnel across the continent. This project is the most important one adding to NATO deterrence, as it includes participation also from the US, UK, Canada and Norway.

In addition to PESCO, the related establishment of a European Defence Fund (EDF) is seen as a step to make defence spending in Europe smarter, potentially contributing to developing stronger European capabilities. The aim of EDF is to promote collaborative projects among companies and research actors in the EU. The EDF also is the first time that EU funds are being allocated to defence initiatives through the European Commission, thus expanding the EU legal competencies in Defence. Responding to Russia's invasion of Ukraine, the EU has also set up a European Peace Facility to finance operations and assistance measures, and European Defence Industry Reinforcement Common Procurement Act (EDIRPA) which is a short-term measure to ramp up defence procurements.

Compared to NATO, the EU does not engage in force projection, but in crisis management. Yet, the adoption of *principled pragmatism* indicated that even though the term is not fully operationalized, there is an increasingly clear intention in the EU to use force whenever it is deemed necessary. Yet, whereas the EU has created a small Military Planning and Conduct Capability (MPCC), its utility to this day remains uncertain. This is perhaps because it is seen by some as potentially competing with NATO's command and control structure. This is also the case in the EU's ambition to set up a Rapid Deployment Capacity (EU RDC) as a framework to swiftly deploy up to 5000 troops in crisis situations or in response to rapidly developing threats. Still, the EU has prioritized defence in recent years and the war in Ukraine has added extra impetus. In the context of collective defence, the question is how these initiatives add to the EU's role in collective defence, and the track record shows its contributions are mostly indirect.

Conclusion

The EU still has a deep-seated collective action problem on defence. The European Defence Agency has reported that despite increased defence spending, collaborative projects are not being prioritized. This brief has discussed the operationalization of a specific area of EU defence–collective defence–and the extent to which recent EU initiatives can be said to have contributed to European collective defence. The division of labour between the EU and NATO is now mostly settled, also at the expense of a clear operationalization of the mutual assistance clause in the EU treaty. The best way to understand EU contributions to collective defence is thus as indirect. Increased collective procurements can provide more effective spending and capability developments for EU member states that are also NATO members. Regulations and measures to counter hybrid threats below the threshold of NATO's Article 5 is a tangible contribution to this end. And the military mobility project under PESCO will improve operational capabilities in the collective defence of Europe. These marginal contributions are perhaps sufficiently supplementary to NATO for the time being, but new developments in the relationship with Russia or the outcome of the 2024 election in the US might push the EU to do even more, should member states agree to it.

Further reading

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