Challenges, risks and threats for security in Europe

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Preface

The conditions for security in Europe in the 21st century differ fundamentally from those in the second half of the 20th century. The consequences of the East-West conflict no longer determine the security agenda. Due to the pan-European process of integration and cooperation, European countries have for the first time in history the chance of a future together in an "area of peace, freedom, security and justice". However, the security situation in Europe is determined by new challenges, risks and threats that appear more complex and less predictable. Security policy became a cross-cutting issue that needs to be thought along in various areas of politics and life. Comprehensive security means that external and internal as well as civilian and military security aspects are closely linked. It goes beyond the traditional security issues and includes, inter alia, instruments of economic, social, environmental, media and health policy.

In addition, today's risks and threats are global in nature, conventional attacks have become unlikely in the foreseeable future. All the more challenges arise from phenomena which cannot be managed on the national level: attacks on the security of IT systems; international terrorism; illegal migration, unsuccessful integration; environmental catastrophes; pandemics; organized crime; scarcity of resources like energy, food and water; climate change.

Given the complexity and cross-border nature of the challenges existing security risks appear to be solvable mainly through international cooperation. The role of international organizations is becoming increasingly important. Concerned with the security in Europe are the European Union, the Council of Europe, the United Nations, the North Atlantic Treaty Organisation and the Organisation for Security and Co-operation in Europe.

The 11th Network Conference of Network Europe analysed the cornerstones of an appropriate security architecture for Europe. The conference included presentations on central security issues such as cybercrime and migration as well as on institutional issues such as the concept of a European army and the role of neutral states in the 21st century. This publication comprises the conference contributions.

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Concept of a European Security and Defence Union (ESDU)

Viorel Cibotaru

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I.   Security Situation in Europe

Defense matters' has become a well-established mantra in capitals across Europe. After more than two decades of 'strategic time-out' characterized by budget cuts and limited expeditionary crisis management abroad, European leaders are once again pressed to focus on how to defend their territories, citizens and open societies.

The security environment in and around Europe has worsened and become more complex. Threats have multiplied. Terrorism, hybrid threats, cyber-attacks or armed conflicts in Europe and our neighbourhood can have a direct impact on the security of European citizens. When it comes to security the core interests of all EU Member States are inseparably linked.

Today's threats do not know borders and no EU Member State can tackle them alone. A European Union that protects is what citizens expect the EU and all Member States to deliver.

French President Emmanuel Macron's recent call for the creation of a 'true European army' was dramatically echoed by German chancellor Angela Merkel in mid-November and has brought the debate over a shared European military back into the public eye. This may mark a watershed moment in European politics. The debate has never been far from media headlines during the

European Commission Presidency of Jean-Claude Juncker, but as the past four years have seen seismic changes in global and European politics, the advent of a true European military now seems to be more likely than ever before. With the United Kingdom's imminent departure from the Union, increasing instability in the transatlantic relationship , the fear of Russian military encroachment, and a worsening EU-Turkey relationship, the question in EU institutions increasingly seems to be not 'if' a European army ought to exist – but 'when' and 'how'.

II.   European Security and Defence Union

1.   Current discussion

The current discussion is driven by a recognition that the EU needs to do more in the area of security and defence. Three developments in particular have pushed ESDU to the top of the Union's agenda. Firstly, its failure to deal with the 2011 Libya crisis and the 2014 Ukraine crisis without the United States (US).

Secondly, the United Kingdom's (UK's) decision to leave the EU, or 'Brexit', which means that the Union will lose its strongest military power and the main obstacle for deeper defence cooperation.

Thirdly, concerns about America's willingness to defend its European allies under President Donald Trump in all circumstances.

ESDU is not a new idea. It was first discussed during the Convention on the Future of Europe (CFE), which drafted the EU's failed constitution in 2001-2003. During the CFE, France and Germany called for developing an ESDU on the grounds that 'a Europe fully capable of taking action' was not feasible without 'enhancing its military capabilities'.

The current ESDU discussion differs from the 2002-2006 one because there is now much broader support for it. Since 2016, the European Commission, the European External Action Service (EEAS), the EP, the Council of the EU, and various EU member states have expressed support for the ESDU.

The European People's Party (EPP), which has been leading the debate on EU defense since 1992, called for an ESDU 'worthy of that name' in June 2015. Germany's 2016 security policy white paper also mentioned that achieving ESDU is Berlin's 'long-term goal'. Furthermore, Commission President Jean-Claude Juncker's 2017 State of the Union address stated that the EU needs 'a fully-fledged European Defence Union' by 2025.

The call by Macron for a 'true European army' marks a significant shift in tone in French attitudes toward the idea of a shared European military. Whilst European military cooperation has existed since the Union's foundation, the concept of a single, unified military was considered something of a taboo subject. However, with Merkel's statement on 13 November in Strasbourg seeming to intentionally echo the language used by Macron, Europe could be seeing the first unambiguous signs of a much more cohesive Franco-German approach to a European military project than has historically been the case.

There were indications that a significant sea change in European attitudes toward shared defence was coming; the signing of the Permanent Structured Cooperation (PESCO) agreement by twenty-three of the twenty-eight European Union Member States was a watershed moment in European history and politics. In brief, whilst PESCO did not directly establish a European army, it did create unprecedented binding obligations for formal security cooperation between Member States, and contained pledges for increased defense spending across the Union that might ultimately lay the foundation for a European army in all but name. The groundwork for "permanent structured cooperation" between Member States in military affairs has existed since 2009 , and since 2003 thirty-four joint missions by EU Member States have taken place under the auspices of the Common Security and Defence Policy (CSDP). However, PESCO's signing into effect may well be seen by future generations as the harbinger of a European army given the unparalleled cooperation in security and defense to which it aspires. Enshrined within PESCO are binding plans to develop joint rapid reaction forces, new state-of-the-art European drones and armoured vehicles, and the creation of centralised European military logistics and medical command centres among other shared projects.

It should also be noted that PESCO is not the only avenue for developing military cooperation above and beyond the usual joint missions taking place under the CSDP framework. In February 2017, the Czech Republic and Romania contributed soldiers and material to a growing multinational military division led by Germany. This was not an unprecedented development – the Netherlands had previously contributed two army divisions to the same multinational brigade under the Bundeswehr. However, the fresh expansion of the multinational military unit led by Germany sparked media controversy for appearing to silently constitute and assemble a European army in all but name under German control. Naturally, this development gave fuel to another controversial issue at the heart of the European army concept: the issue of sovereignty.

2.   Purpose of the EDSU

As the 2016 EPP Paper on Security and Defence states, this is the purpose of the EU's Common Security and Defence Policy (CSDP). Given that it should also be the main purpose of ESDU, it should be created around two main deliverables that would boost the EU's 'defence' dimension: (1) an unqualified mutual defence commitment, and (2) a military Schengen area.

First, given that not all EU members are NATO members and therefore not under the protection of Article 5 of the North Atlantic Treaty, ESDU participants should commit to defending each other through all means in their power, including military force, in the event that one of them becomes subject to armed aggression.

Although this sounds similar in tone to Article 42(7) of the Treaty on EU (TEU), the so-called mutual assistance clause, it is not. Article 42(7)'s mutual assistance commitment is rendered hollow by its second paragraph, which states that it 'shall not prejudice the specific character of the security and defence policy of certain Member States'. This means that the Article 42(2) can be interpreted in a highly subjective way. Thus, a genuine ESDU should include an unqualified mutual defence commitment.

Second, in ESDU, there should be minimal to no obstacles to moving military forces and equipment from one state to another. At the moment, such movement is hindered by various bureaucratic requirements, such as passport checks at some border crossings.

Furthermore, infrastructure problems, such as roads and bridges that cannot accommodate large military vehicles, create additional obstacles to the movement of military personnel and equipment in Europe. This is something that has also been called for by NATO, which means that it would also further boost EU-NATO cooperation.

ESDU should be created around an unqualified mutual defence commitment and a military Schengen area. These would form the core of the new defence core group, or the "Euro" of a "Defence Eurozone".

In addition, ESDU could include looser commitments, such as a commitment by the participating EU member states to invest a certain percentage of their Gross Domestic Product (GDP) in defence; and a commitment to improve the EU's existing rapid response capabilities, particularly the battlegroups. However, given that such commitments could eventually be ignored, they should not form the backbone of an ESDU.

III.   Permanent Structured Cooperation

1.   Deepening defence cooperation among EU member states

In light of a changing security environment, the EU Global Strategy for Foreign and Security Policy (EUGS) started a process of closer cooperation in security and defence. The EU Member States agreed to step up the European Union's work in this area and acknowledged that enhanced coordination, increased investment in defence and cooperation in developing defence capabilities are key requirements to achieve it. This is the main aim of a Permanent Structured Cooperation on Security and Defence (PESCO), as outlined in the Treaty of the EU, Articles 42 (6) and 46, as well as Protocol 10. Through PESCO, Member States increase their effectiveness in addressing security challenges and advancing towards further integrating and strengthening defence cooperation within the EU framework.

This will thus enhance the EU's capacity as an international security actor, contribute to the protection of EU citizens and maximise the effectiveness of defence spending. The difference between PESCO and other forms of cooperation is the legally binding nature of the commitments undertaken by the participating Member States. The decision to participate was made voluntarily by each participating Member State, and decision-making will remain in the hands of the participating Member States in the Council. This is without prejudice to the specific character of the security and defence policy of certain EU Member States.

On 13 November 2017, as the first formal step towards setting up PESCO, Ministers signed a common notification on the PESCO and handed it over to the High Representative and the Council. The notification sets out a list of 20 more binding common commitments in the areas of defence investment, capability development and operational readiness. It also contained proposals on the governance of PESCO and its principles. Based on this notification, on 11 December 2017, the Council took the historic step to adopt a decision establishing PESCO and its list of participants. A total of 25 Member States decided to participate in PESCO.[1]

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[1]   The participating Member States are: Austria, Belgium, Bulgaria, Czech Republic, Croatia, Cyprus, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Ireland, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Portugal, Romania, Slovenia, Slovakia, Spain and Sweden.

2.   Structure and Governance

PESCO has a two-layer structure:

• Council Level: Responsible for the overall policy direction and decision-making, including as regards the assessment mechanism to determine if participating Member States are fulfilling their commitments. Only PESCO members are voting, decisions are taken by unanimity (except decisions regarding the suspension of membership and entry of new
members which are taken by qualified majority).

• Projects Level: PESCO's effectiveness will be measured by the projects it will develop. Each project will be managed by those Member States that take part in it, under the oversight of the Council. To structure the work, a decision on general governance rules for the projects has been adopted by the Council.

PESCO Secretariat: The European Defence Agency (EDA) and the EEAS, including the EU Military Staff, are jointly providing secretariat functions for all PESCO matters, with a single point of contact for the participating Member States. Implementation of PESCO: On 6 March 2018, the Council adopted a Recommendation which sets out a roadmap for the further implementation of PESCO.

PESCO projects: A Member State owned process > PESCO projects must have a clear European added value in addressing the Union's capability and operational needs, in line with the EU Capability Development Priorities and CARD. The projects contribute to fulfilling the more binding commitments and to achieving the EU Level of Ambition. > On 6 March 2018, the Council formally adopted the first set of 17 different projects and the project members for each of them. A second set of another 17 projects is was adopted by the Council on 20 November 2018.

The 34 projects in the areas of capability development and in the operational dimension range from the establishment of a European Medical Command, an EU Training Mission Competence Centre, Cyber Rapid Response Teams, Mutual Assistance in Cyber Security, Military Disaster Relief or an upgrade of Maritime Surveillance to the creation of an European Military Space Surveillance Awareness Network, a joint EU Intelligence School, specialised Helicopter Training as well as co-basing, which would allow the joint use of national and overseas bases.

Third States participation in PESCO projects While membership of the Permanent Structured Cooperation is only for those Member States who have undertaken the more binding commitments, third States may exceptionally par-

ticipate at the level of PESCO projects. In principle before the end of 2018, the Council will agree on the general conditions under which third states may exceptionally be invited to participate in PESCO projects. It is first up to members of individual projects to consider inviting a third State that meets the general conditions. The Council will decide whether a third State meets these requirements. Following a positive decision, the project may then enter into administrative arrangement with the concerned third State, in line with procedures and decision-making autonomy of the Union. PESCO is both a permanent framework for closer cooperation and a structured process to gradually deepen defence cooperation within the Union framework. It will be a driver for integration in the field of defence. Each participating Member State provides a plan for the national contributions and efforts they have agreed to make. These national implementation plans are subject to regular assessment. This is different from the voluntary approach that is currently the rule within the EU's Common Security and Defence Policy. PESCO is designed to contribute to making European defence more efficient and to deliver more output by providing enhanced coordination and collaboration in the areas of investment, capability development and operational readiness. Permanent structured cooperation in this domain will allow for decreasing the number of different weapons' systems in Europe, and therefore will strengthen operational cooperation among Member States, connect their forces through increased interoperability and enhance industrial competitiveness. PESCO will help reinforce the EU's strategic autonomy to act alone when necessary and with partners whenever possible. Whilst PESCO is underpinned by the idea that sovereignty can be better exercised when working together, national sovereignty remains effectively untouched. Military capacities developed within PESCO remain in the hands of Member States that can also make them available in other contexts such as NATO or the UN.

3.   Relevance for the security of the EU and its citizens

On 25 June 2018, the Council adopted a Decision establishing the common set of governance rules for the PESCO projects. It includes an obligation to report on progress to the Council once a year, based on the roadmap with objectives and milestones agreed within each project.
– Each year by November, the process to generate new projects will be launched in view of updating the list of projects and their participants by the Council. Assessment criteria have been developed by the PESCO secretariat to inform the evaluation of the project proposals by the participating Member States.

4.   Part of a comprehensive defence package

PESCO is closely connected to the new Coordinated Annual Review on Defence (CARD) and the European Defence Fund (EDF). They are complementary and mutually reinforcing tools supporting Member States' efforts in enhancing defence capabilities: CARD, run by the European Defence Agency, through the systematic monitoring of national defence spending plans, will help identify opportunities for new collaborative initiatives.

The EDF provides financial incentives for Member States to foster defence cooperation from research to the development phase of capabilities including prototypes through co-financing from the EU budget. PESCO projects may benefit from increased EU co-financing, which could amount to 30% – instead of 20% – for prototypes.

PESCO will develop capability projects responding to the EU priorities identified by EU Member States through the Capability Development Plan, also taking into account the results of the Coordinated Annual Review on Defence. Eligible projects could also benefit from financing under the EDF, as explained above.

EU-NATO Cooperation Today and Tomorrow

Attila Vincze

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I.   Introduction

The EU and NATO have 22 members in common, which makes a co-operation not only reasonable but to some extent also necessary. In this sense, the 2016 NATO summit welcomed an enhanced co-operation between NATO and the EU. The conclusions of this summit recognised „the importance of a stronger and more capable European defence, which will lead to a stronger NATO, help enhance the security of all Allies, and foster an equitable sharing of the burden, benefits and responsibilities of Alliance membership". The NATO also encouraged further mutual steps in this area to support a strengthened strategic partnership.[1]

On 8 July 2016, the President of the European Council and the President of the European Commission, together with the Secretary General of NATO signed a Joint Declaration in Warsaw in order to reinvigorate the EU-NATO strategic partnership. Based upon this declaration a number of further actions and proposals were endorsed by the EU and NATO. On 10 July, 2018, the President of the European Council and the President of the European Commission, together with the Secretary General of NATO signed a second Joint Declaration in Brussels calling for swift and demonstrable progress in implementation.

As the Delors Institute persuasively put it, complex threats call for smart division of labour, as "neither NATO nor the EU has the toolkit to address these

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[1]   Warsaw Summit Communiqué, Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Warsaw 8-9 July 2016, para 124-126.

increasingly complex threats alone".[2] And indeed there is considerable ongoing practical co-operation between the EU and NATO: the EU has considerable soft power and economic tools to contribute to the aims of NATO, and NATO has the capabilities to support the EU as happened during the migration crisis as ships were deployed on the Aegean Sea to assist Greece and Turkey, as well as the European Union's border agency FRONTEX. The EU also supported NATO's manoeuvres in Afghanistan with its diplomatic and economic capabilities. Nonetheless, it would be hard to overlook the tensions between (and within) the NATO and the EU: earlier Iraq, later Libya and most recently Iran are probably the most obvious examples.

Moreover, it is an ongoing issue since the 1960es that Europe has to develop its own defence capabilities, and cannot rely on the US. President Kennedy claimed in 1963 that the US cannot „continue to pay for the military protection of Europe while NATO states are not paying their fair share and are living off the fat of the land." President de Gaulle also emphasized that Europe has to take its defence into its own hands.[3] Not only did Mr. Trump tweet furiously a very similar message after his election victory, but European leaders have also questioned America's commitment during the few last years. This worry was voiced most obviously by Mrs. Merkel in the European Parliament in November 2018. There is even some detachment of the US from the defence of Europe, and there is also an observable wish for Europe to assume responsibility for her own defence, as the 70 years of NATO alliance created a kind of path towards dependency in co-operation. The following essay will firstly take a historical look at the defence co-operation, set out the legal framework of the co-operation, and consider the political context of it.

II.   A Historical Overview[4]

Today's hotchpotch relationship between NATO and the EU goes back to the founding years, and it is hard to understand without taking the historic events into account.

Just as the economic integration among the founding Member States of the ECSC and EEC were forged by historic pathways, amongst long-term interests

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[2]   Jacques Delors Institute Berlin: Three arguments for an ever closer EU-NATO cooperation, <https://www.delorsinstitut.de/en/publications/three-arguments-for-an-ever-closer-eu-nato-cooperation/>.

[3]   Jackson Julian, A Certain Idea of France: The Life of Charles de Gaulle, London 2018, p. 743.

[4]   For a detailed analysis see: Trybus Martin, European Union Law and Defence Integration, London 2005, p. 65.