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FROM EU STRATEGY TO DEFENCE SERIES

Defending Europe

Translating mutual assistance into action

The protection of Europe has become a new task for the EU as a security provider. But what does this new responsibility entail in practice? This Policy Brief analyses how the EU's mutual assistance clause (Art. 42.7) can be translated into action by looking into ways to improve commitment and coordination. It argues that while the member states should remain in the lead, the EU institutions should be involved in the article's implementation.

The European Union has a new task as a security provider: the protection of the Union and its citizens.¹ This new strategic priority is part of the EU's updated ambition level, which was adopted by the EU Council in November 2016. This new ambition recognises that the EU has a responsibility for Europe's own security, in addition to NATO. Today's cross-sectoral security threats require more than territorial defence alone (for which NATO remains responsible for the majority of EU states). The EU, with its comprehensive toolbox, can complement NATO in for example border security and countering hybrid threats. As a security provider, the EU can therefore no longer permit itself to focus only on far-away crisis management operations and capacity building. It needs to step up its game in the protection of Europe.

But what does this new responsibility entail? In her Implementation Plan on Security and Defence, High Representative Mogherini

mentions political solidarity and mutual assistance as the foundation of this new ambition.² She refers to the importance of the EU's mutual assistance clause (Art. 42.7) in particular, which obliges member states to provide "aid and assistance by all the means in their power" if another member state is the victim of armed aggression.³ This clause

¹ The author would like to thank the General Secretariat of the Council of the European Union for interviews with several Council Secretariat officials.

² High Representative of the Union for Foreign Affairs and Security Policy, Vice-President of the European Commission, and Head of the European Defence Agency, Implementation Plan on Security and Defence, Brussels, 14 November 2016 (14392/16), p. 14.

³ "If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States. Commitments and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation."

has the potential to fundamentally alter the nature of the EU as a security provider, as it opens the door for a collective defence task for the EU – alongside NATO. Besides underlining the article's importance, however, Mogherini does not provide a roadmap for translating the commitment into action. This Policy Brief analyses how this could be done by looking into ways to improve commitment and coordination, and the role that the EU institutions could play therein.

From improvisation to coordination

To tap the full potential of the mutual assistance clause, clarification is needed on what the obligation entails in practice. Whereas NATO's Article 5 is backed up by planning, training & exercises and military headquarters, Art. 42.7 is not. After the first invocation of the mutual assistance clause – by France in November 2015 – this was perhaps not required, as the French government was looking for support in the form of military contributions to existing operations in Iraq/Syria and the Sahel. In the future, however, the clause could be invoked in situations that would require a response of a different nature. Hypothetically, Finland (a non-NATO member) could for example invoke the clause in response to an invasion by 'little green men' and a cyber attack on its critical infrastructure. Such an invocation would demand much more from the EU's Common Security and Defence Policy (CSDP) in terms of planning, conduct and capabilities than was the case after the French invocation.

Before the mutual assistance obligation can be translated into planning and capabilities, however, clarification is needed on the roles and responsibilities of the actors involved. The article is not accompanied by implementation arrangements and therefore leaves a great deal of room interpretation and improvisation on its implementation. After the first activation, France chose to negotiate with other member states on a bilateral basis and did not involve the institutions. No coordination took place at EU-level. As a large member state, France

was able to get the aid and assistance it needed in this way. However, an armed attack against an EU member state, and the European response thereto, is of such political and strategic importance that it requires coordination at EU-level. The strong political signal that is sent by an invocation of Art. 42.7 would be severely undermined if it is followed by an uncoordinated response. Furthermore, a smaller member state than France could invoke the clause in the future. They might not be able to coordinate the national and European response simultaneously. In the hypothetical case outlined above, it would for example be an enormous challenge for Finland to organise the European response while having to deal with the little green men and getting its critical infrastructure back up at the same time. To assist member states with this coordination task, the institutions should step in.

Involving the institutions, however, should not come to the detriment of the article's flexibility. This flexibility is after all, besides the article's biggest pitfall, also its largest appeal. It allows for a common European response to a wide array of crises and enables member states to tailor their aid and assistance to the needs of the attacked member state. The mutual assistance clause should thus remain an instrument in the hands of the member states, but the institutions can help member states to overcome the lack of coordination that would result from a 'member states only' approach.

Bringing in the institutions

What is needed to bring about a coordinated response after a future invocation? First of all, member states should keep the Council updated on the actions they undertake and ensure complementarity of action. The High Representative has an important coordinating role to play in this regard. She needs to connect to offered aid and assistance to the needs of the attacked member state. Furthermore, she should ensure that member states' responses are in line with the EU's broader foreign and security policy objectives

and safeguard complementarity of action with other EU actors and instruments. Finally, the High Representative needs to ensure complementarity of action between the EU and NATO. The playbooks on EU-NATO interaction which are currently being developed are especially relevant in this regard.

The institutions can also step in to assist an attacked member state in coordinating the European response. The EU's Integrated Political Crisis Response (IPCR) arrangements could be activated to facilitate this. The IPCR provide a framework to coordinate responses to major crises at the highest political level, under the leadership of the Council Presidency. By activating this instrument, the Presidency takes over the coordination of the European response from the attacked member state. The Council Secretariat and the Commission are involved to support the Presidency in this coordination task.

A coordinated response also requires cross-border information-sharing and a shared understanding of the situation at hand. Again, the IPCR arrangements can be used. Upon its activation, a closed web platform is launched to facilitate information-sharing between member states. It also tasks the EEAS and the Commission to produce joint situational awareness reports, which provide a strategic overview of the evolution of the crisis and the impact of the actions taken. In writing these reports, the penholder (which could be the High Representative) brings together analyses by different institutional bodies responsible for providing situational awareness, as well as the information provided by member states through the web platform. This shared assessment allows the actors involved to depart from the same starting point, which will help to streamline their responses.

Next steps

Procedures and institutional support alone are not enough to translate the mutual assistance commitment into action.

The EU's new task in protection of Europe also needs to be translated into capabilities. Together with the European Defence Agency and the EU Military Staff, the member states therefore need to identify the military capabilities that are needed to support the EU in its role and responsibilities in the protection of Europe. Potential future situations in which the mutual assistance clause could be invoked should be included in the scenarios that feed into the updated Capability Development Plan. These scenarios could include the roles of the EU in contributing to the domestic security of the attacked member state or in support of the EU's border security.

Furthermore, the existing institutional capacity needs to be reinforced. The activation of the IPCR arrangements in response to the refugee crisis has demonstrated the instrument's success, but has simultaneously laid bare capacity problems. The arrangements currently lack the manpower to coordinate multiple crises simultaneously or to train for new threat scenarios during activation. To back up the instrument, the Council Secretariat should therefore be reinforced. Furthermore, in line with the EU-NATO declaration of December, synchronisation between the IPCR arrangements and NATO's Crisis Response System is needed.

Finally, intelligence sharing between member states and EU actors needs to be strengthened. The walls that currently exists between member states, the EEAS and the Commission need to be torn down. Also, information-exchange with NATO needs to be improved. The planned European Centre for Countering Hybrid Threats, which brings together the EU's Hybrid fusion cell with relevant NATO structures, is a step in the right direction. This centre could serve as a model for other information fusion cells.

These capability improvements would not only benefit a future activation of the mutual assistance clause, but would benefit the CSDP as a whole and enable the EU to live up to its potential in the protection of Europe.

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