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Master's Thesis

**Legal Foundations of EU Common Foreign and Security Policy: Is the Existing
Framework Fit for Purpose?**

**ES Bendros Užsienio ir Saugumo Politikos Teisiniai Pagrindai: Ar Egzistuojanti
Šaranga Atitinka šios Politikos Srities Paskirtį?**

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ABSTRACT AND KEYWORDS

This work analyses Common Foreign and Security Policy (CFSP) of the European Union, established to maintain peace, prevent conflicts, create common stance in external affairs, fortify international security, foster an international system on effective multilateral cooperation. Only together with the Member States acting as one voice, EU can pose itself as a powerful union. The CFSP, being a response to changing needs of the geopolitics and the post-Cold War chaos, is an attempt to transform EU from economic to political and strategic actor on the international arena. In the Master's thesis it is evaluated if the existing legal framework is developed enough to achieve the set-out objectives and correspond to the challenges that arise in this unstable multipolar world. The study concludes that the framework is barely effective, it finds some structural and procedural deficiencies that hinder the CFSP's potential.

Keywords: European Union, EU law, Common Foreign and Security Policy, Common Security and Defence Policy, external actions, civil and military missions, procurement, military capabilities, army, diplomacy, foreign policy, legal framework, intergovernmental, crisis management, instruments, war, mutual solidarity, diplomacy, White Paper on European Defence – Readiness 2030, ReArm Europe.

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LIST OF ABBREVIATIONS

AFET	Committee on Foreign Affairs
CFSP	Common Foreign and Security Policy
CISE	Common Information Sharing Environment
CIVCOM	Committee for Civilian Aspect of Crisis Management
CIVOPSHQ	Civilian Operations Headquarters
COREPER	Committee of Permanent Representatives of the Government
CSDP	Common Security and Defence Policy
DEVE	Committee on Development
SECDEFPOL.DMD	Security and Defence Directorate
DROI	Subcommittee on Human Rights
EAEC	European Atomic Energy Community
ECHR	European Convention on Human Rights
EDA	European Defence Agency
EDF	European Defence Fund
EFTA	European Free Trade Association
EPF	European Peace Facility
ERA	Extraordinary Revenue Acceleration
ESDC	European Security and Defence College
EU	European Union
EUISS	European Institute for Security Studies
EUMC	European Union Military Committee
EUMS	European Union Military Staff
EUSRs	EU Special Representatives
FAC	Foreign Affairs Council
INTA	Committee on International Trade

JCMs	Joint consultation meetings
MARSUR	Maritime Surveillance
MPCC	Military Planning and Conduct Capability
NEC	National escape clause
NPD	Non-proliferation and Disarmament
OCCAR	Organisation for joint armaments cooperation
OSCE	Organization for Security and Co-operation in Europe
PCM	Partnerships and Crisis Management Directorate
PESCO	Permanent Structured Cooperation
PMG	Politico-Military Group
PSC	Political and Security Committee
SatCen	Satellite Centre
SEDE	Security and Defence

INTRODUCTION

To commence, the topic of this Master's thesis is relevant due to European Union's eagerness to improve its profile as a powerful global actor on the international arena, capable to manage crisis and prevent conflict within its borders and in the neighbourhood. After the Second World War the existing order was not able to respond to the new challenges, the escalating fear that something similar or even worse can happen provoked the creation of the European Union with the shared values and strive to peace. The 21st century is full of chaos and constant threats becoming even more complicated thanks to geopolitical instability, multipolar world order and ongoing challenges. It is not only a matter of war, invasion or terrorism, but also trafficking, transborder crimes, nuclear perils and diseases like COVID-19 in 2020. War in Europe in the 21st century, namely Russian war of aggression against Ukraine, is a reminder not to neglect security and, therefore, underlines the importance of security in the region. The war in the Middle East, tensions in Indo-Pakistan region underscore the need for the coherent supranational union with common strategy. Nowadays, it is the most important period in geopolitics, when common foreign policy (CFSP) must work for the common good of EU. In particular, the EU is a stronger player in the international arena if it is represented as a united front. Furthermore, it is also essential to develop the legal framework in such a situation to have a structured approach to solve crisis. This topic is relevant for the theory and practice of law, because it helps to underpin the issues in legal procedure, gaps in legal framework. It reviews the questions of nature of EU and national sovereignty in external relations. Furthermore, it provides the analysis if framework is capable to fulfil its objectives. This Master's Thesis provides a unique insight into CFSP, systematically evaluates the effectiveness of the policy, compares the approaches and analyses case study.

The CFSP helps to expand markets and strengthen trade relations, which directly affects the economic growth of the EU member states (MS). The relevance of this research stems from the EU's increasingly complex and unstable geopolitical environment.

The aim of this Master's thesis is to evaluate the effectiveness of CFSP as a strategy for preventing conflicts, managing crisis, promoting human rights and international law, assess if the legal framework is adequate to respond to challenges de-facto.

The objectives of the Master's thesis are to analyze legal framework, define the scope of CFSP, explain its principles and objectives, describe institutions and their role in CFSP, legal instruments, procedures in CFSP, discuss the correlation between CFSP and CSDP, develop understanding of the EU law and policies, compare the improvements of the CFSP,

review case studies on the relevant topic, discover the strengths and weaknesses, limitations of CFSP, offer recommendations to improve the CFSP.

The object of the research in the Master's Thesis is the system of legal norms, relations, mechanisms, instruments that form EU's CFSP.

The research methods used in the Master's Thesis are the following: doctrinal legal analysis, empirical legal approach, qualitative, comparative legal research, historical, case study, critical, analytical, interdisciplinary approach. The core of the research is the doctrinal legal analysis being aimed to interpret the EU Treaties, Council decisions, case law, opinions of scholar and analyzing all the aspects discovered in the process of the writing. The historical method was used to trace the evolution of the EU and the CFSP from Maastricht to Lisbon Treaty; give an incredible insight into the genuine purpose, influence, problems that arose and, last but not least, understand how further the strategy can be improved. The qualitative method was used to explore perceptions and review documents, opinion of policymakers, diplomats and other experts. Policy analysis helps to examine how the CFSP influences the modern geopolitics, evaluates its adequacy for the challenges and improvements. Comparative method is used to find similarities and differences in terms of EU external actions and the CFSP as a specific policy, EU and NATO approaches to conflict solution, UN and EU principles. Some cases are reviewed in this Master's Thesis as well as giving a well-grounded whole overview of the policy and practice. Empirical method helps to understand how EU law and the CFSP works in practice rather than it is declared to work. Analytical method is used to clarify sophisticated legal or political concepts, explain them through logic. Critical method investigates the assumptions and challenges the narratives, gives clear understanding of how policy works. The topic of this Master's Thesis is interdisciplinary in its nature, therefore it is overviewed not in isolation, but as part of wider European Union and global system.

The originality of this Master's Thesis lies in comprehensive approach to analysis of the CFSP in respect to the laid-down objectives and challenges in modern international politics. The choice of questions which are addressed within this Paper is unique and the research combine both Lithuanian, Ukrainian and international scientific sources. The Master's Thesis provides original contribution to EU law offering essential information and study results for further development of CFSP and EU system.

1.1. EU Common Foreign and Security Policy

1.1.1. Definition and Scope of EU Common Foreign and Security Policy

The common foreign and security policy (CFSP) of EU is an important fundament for EU functioning and a step forward in the democratic, peaceful future not only for our generation, but also our descendants. Indeed, in the past the CFSP used to be a second pillar of the EU, therefore it marks its indisputable importance for the sake of EU values, in particular respect for human rights and their indivisibility, solidarity and security, UN Charter promotion, rule of law and universality. The CFSP enables EU to play a leading role in strengthening international security, peacekeeping operations and conflict prevention. This is an integral part of the EU's comprehensive approach to crisis management using civilian and military means.

To commence, it is crucial to explain what is implied under the CFSP. It is worth mentioning that the CFSP is a complex policy or programme of the EU that aims to preserve peace, reinforce security, endorse cross border cooperation and strengthen democracy, rule of law and other fundamental human rights and freedoms¹. The Treaty of European Union in Article 24 clarifies: “The Union's competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union's security, including the progressive framing of a common defence policy that might lead to a common defence”². It is widely considered to be a significant and immersive policy that guides EU in its external relations.

One of the important features of the CFSP is its cross border operation. Despite the fact that the CFSP is basically an EU policy funded by EU Member States (MS) and often associated with protection of EU territory, but its influence and geographical scope is directed beyond EU borders. This ramification is mostly achieved through civilian and military missions, stabilization actions, political and economic instruments, European Council statements and conclusions and, last but not least, demarches. Furthermore, the CFSP is essentially intertwined with Common Security and Defence Policy (CSDP), Non-proliferation and Disarmament (NPD) and European Union Special Representatives (EUSRs), which are functioning in parallel to attain the laid down objectives. Thanks to

¹European Commission (n.d.). Common Foreign and Security Policy. [online]. Available at: https://commission.europa.eu/funding-tenders/find-funding/eu-funding-programmes/common-foreign-and-security-policy_en (accessed 01.09.2025).

² Consolidated version of the Treaty on European Union [2016] OJ C 202/13.

these instruments at its disposal, the CFSP can respond fast to the different geopolitical challenges that may arise in the course.

Worth mentioning is the fact that more than 2000 people are engaged in 10 civilian mission of the CFSP within 10 years, which confirms the significance of the policy and the EU's efforts to make peace³. The EU is conducting multiple operations on land and sea to train military, protect peace and establish fight with pirates. The missions extended to Ukraine, Iraq, Central African Republic, Libya, Kosovo, Mali, Somalia, Armenia, Georgia, Republic of Moldova, occupied Palestinian territory, Mozambique, West African countries of the Gulf of Guinea. This way, the CFSP is involved in Africa, the Middle East, Western Balkans and Eastern Europe⁴. Such approach was clarified in the Art. 21 of the TEU: "The Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations... It shall promote multilateral solutions to common problems, in particular in the framework of the United Nations".

According to many scholars, the "structural foreign policy of the EU" is based on Immanuel Kant's idea of eternal peace through the external dissemination of liberal values, which formed the basis of the EU's political identity⁵.

If we take a look on the CFSP in a subject-matter scope perspective, we can emphasize that its legal framework is defined in Articles 21-46 of the TEU, which explicitly outline the aims, instruments and principles of this policy. It is the European Council that shall identify the strategic interests and objectives of the Union, the High Representative of the Union for Foreign Affairs and Security Policy (HR) and the Commission may submit joint proposals to the Council (Art.22 of TEU).

What is more, the CFSP is a separate policy that is evolving simultaneously with numerous EU external actions in sphere of trade, enlargement and development. A large legal framework established by EU institutions and some regional intergovernmental organizations in Europe such as Council of Europe, Organization for Security and Co-

³ European Commission, Service for Foreign Policy Instruments (n.d.). *Common foreign and security policy* [online]. https://fpi.ec.europa.eu/what-we-do/common-foreign-and-security-policy_e.

⁴ *ibid.*

⁵ KEUKELEIRE, Stefan. DELREUX, Tomas (2014). *The Foreign Policy of the European Union*, cited according to СОЛОВИХ, Віталій; МОСКАЛЕНКО, Олександр (2019). «Спільна зовнішня політика та політика безпеки на сучасному етапі розвитку Європейського Союзу», *Актуальні проблеми державного управління*, No. 2(78), p. 75.

operation in Europe (OSCE), the European Free Trade Association (EFTA), European Atomic Energy Community (EAEC, Euroatom), etc. create a space where democracy, respect for human rights and freedoms and rule of law prosper.

President of the European Commission Ursula von der Leyen claims “The security architecture...can no longer be taken for granted”⁶. The EU must invest in defence, strengthen capabilities and take a comprehensive approach to security.

The EU uses complex instruments described in European Security Strategy (2003 – already outdated), Global Security (2016), Strategic Compass and other. Furthermore, the “Joint White Paper for European Defence – Readiness 2030” was announced on 19th March 2025, which presents a comprehensive plan to rearm and enhance EU’s defence capacity. It is important to emphasize it is partially connected to CFSP, other parts of this plan belong to other EU policies, which are largely led by the European Commission. Readiness 2030 aims to transform EU from a mainly diplomatic, political and economical actor into strategically autonomous and military capable power. This White Paper marks a shift, when the CFSP is entering a new military integrated phase, where defence and financial policies provide for deterrence and strategic autonomy. The ReArm Europe Plan - Readiness 2030 involves five pillars: SAFE, boosting national defence funding, making the EU more flexible to allow greater defence investment, European Investment Bank lending, mobilization of private capital⁷.

SAFE, which was adopted under Art.122 of TFEU, is a part of Readiness 2030, but not part of CFSP, which is regulated by TEU, and is an extraordinary security tool, which disburses up to €150 billion to assist EU MS in strengthening their defence capabilities⁸. These funds are to be paid to interested MS on demand, based on national plans. SAFE will allow acceding countries, candidate countries, potential candidates and countries that have signed a security and defence partnership agreement with the EU to join joint procurement and get financing.

⁶ European Commission (2025). *Speech by the President: European defence at the Royal Danish Military Academy* [online]. https://ec.europa.eu/commission/presscorner/detail/en/speech_25_814

⁷ CLAPP, Sebastian; HÖFLMAYER, Martin; LAZAROU, Elena; PARI, Marianna (2025). *ReArm Europe Plan/Readiness 2030*. EPRS Briefing, PE 769.566 – April 2025 [online]. p. 3. [https://www.europarl.eu.eu/.../EPRS_BRI\(2025\)769566_EN.pdf](https://www.europarl.eu.eu/.../EPRS_BRI(2025)769566_EN.pdf).

⁸ European Commission, Directorate-General for Defence Industry and Space (2025). *SAFE | Security Action for Europe* [online]. https://defence-industry-space.ec.europa.eu/eu-defence-industry/safe-security-action-europe_en.

It is also important to remark that the CFSP is allocated with 2,68 billion Euro budget for 2021-2027. What is more, the EU encourages its MS to activate the escape clause in order to boost the supply of defence equipment. It allowed countries to deviate from some fiscal obligations through general escape clause and national escape clause (NEC). Another aspect is involvement of the European Investment Bank (EIB), which eased some rules for lending loans for military products. Also, some suggestions on establishment of Rearmament Bank were discussed in the White Paper on European Defence/Readiness 2030⁹. In addition, before adoption of ReArm Europe Plan/ Readiness 2030, Strategic Compass was developed to define the key priorities for 2022-2030.

In conclusion, the CFSP is an immersive policy of EU external relations, which is aimed to preserve peace, reinforce security, endorse cross border cooperation and strengthen democracy, rule of law and other fundamental human rights and freedoms. CFSP is intertwined with CSDP, NPD, EUSRs. Another point to remember is that CFSP is conducted through numerous instruments like defining guidelines, adopting decisions, taking actions, positions, arrangements with other third countries, civilian and military missions, political instruments, demarches, sanctions or other economic leverages. It is also revealed that CFSP has a special nature, not typical for other EU policies. We observe that the CFSP is sidelined by other EU external action policies that are mainly led by DG-DEFIS. Readiness 2030, SAFE Regulation and some other mentioned elements do not belong to the CFSP. Therefore, we may assume CFSP requires reforms, which will be later discussed in other chapters. The legal framework for CFSP is defined in Articles 21- 46 of the TEU. In the last decade, a lot of new developments in CFSP area have been introduced. This is due to the ravaging war on the EU's borders and a change of war methods that require solutions that have never been used before. Implementation of robots, drone warfare, advanced technologies on the field means changes in strategies must be developed. As a result, the EU has adopted White Paper on European Defence – Readiness 2030, which marked a turning point in the line of EU external action policies, because it emphasizes the EU's priority of defence sector. Understanding this shift is crucial, as it may help to spot the previous mistakes and consider when defining the policy for the upcoming years.

⁹ CLAPP, Sebastian; HÖFLMAYER, Martin; LAZAROU, Elena; PARI, Marianna (2025). *ReArm Europe Plan/Readiness 2030*. EPRS Briefing, PE 769.566 – April 2025 [online]. p. 8. [https://www.europarl.eu.eu/.../EPRS_BRI\(2025\)769566_EN.pdf](https://www.europarl.eu.eu/.../EPRS_BRI(2025)769566_EN.pdf).

1.1.2. The main principles of the CFSP

The principles lay the groundwork for any policy and guide how institutions or governments implement ideas and decisions, therefore these key concepts help to navigate the potential development of the strategy. The European main principles change with the adoption of different treaties, from the Maastrich to Lisbon Treaty.

As it is stated in the Art. 21 of TEU, the CFSP is guided by “the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law”¹⁰. In general, EU values are mentioned in Art.2 of Lisbon Treaty and the EU Charter of Fundamental Rights¹¹.

Armin Cuyvers noted that principles can be considered as a dark matter of EU law and they provide the foundation for unification of law, evolution of legal order, filling gaps and, the most important, “legitimacy of the EU legal order as a whole”¹². What is more, he believes general principles have a potential to develop according to new challenges of the society and geopolitics as well as cause stagnation by reluctance to re-interpret concepts.

Thus, the Union is established on the following principles:

1. **Democracy**, which provides the foundation for the Union and serves as a core principle of its functioning. This way, representative democracy enables EU citizens to enjoy their political rights by voting and standing as a candidate¹³.

2. **Rule of law**, in turn, is a fundament of the Union. It is manifested in all the documents adopted by its institutions and MS. This is achieved through independent judicial system¹⁴.

¹⁰ Consolidated version of the Treaty on European Union [2016] OJ C 202/13.

¹¹ Charter of Fundamental Rights of the European Union (2000/C 364/01). *Official Journal of the European Communities*, 18 December 2000, C 364/1.

¹² UGIRASHEBUJA, Emmanuel; RUHANGISA, John Eudes; OTTERVANGER, Tom; CUYVERS, Armin (eds.) (2017). *East African Community Law: Institutional, Substantive and Comparative EU Aspects* [online], p. 232. Leiden, Boston: Brill Nijhoff. https://library.oapen.org/bitstream/handle/20.500.12657/37805/9789004322073_webready_content_text.pdf

¹³ European Union (n.d.). *Aims and values* [online]. https://european-union.europa.eu/principles-countries-history/principles-and-values/aims-and-values_en.

¹⁴ *ibid.*

3. **Universality and indivisibility of human rights and fundamental freedoms** is a leverage that drives the EU. Human dignity, liberty and security as well as freedom of thought, conscience, religion, expression are preserved. Right to life is considered to be the highest value and belongs to non-derogable rights in line with prohibition of torture, slavery, forced labour and “no punishment without law” (Art.7 of ECHR)¹⁵.

4. **Equality** – stands for the equal provision of rights to all EU citizens, the equality between women and men, equal pay for the equal work are non-negotiable standards in every aspect of EU policy. Solidarity reflects the true nature of EU meaning that all states support each other politically, economically or socially and act together for common goals (Art. 2,3 of TEU).

5. It seems reasonable to assume that **solidarity** is one of the most important values in terms of the CFSP. To demonstrate this point, it is useful to examine Art. 42 (7) of TFEU. Taken the provision above, the Treaty suggests that there is a mutual defence clause that in a certain way may increase the state of safety of the countries and responsiveness towards aggression that can endanger them. In such a case, they shall mobilize resources and act unite, so the importance of Art. 42 should not be underestimated. The clause reminds slightly of Art. 5 of the Washington Treaty (NATO). However, they are different in certain ways. Pursuant to some scholar, Art. 42 is more accurately formulated, as the EU-members are explicitly obliged to help with all means at their disposal, which can range from diplomatic, civil protection, police instruments, but also military tools. Thus, Art. 42 of TEU seems to have a “more compelling nature”¹⁶, whereas Art. 5 of NATO considers military leverage as a central and deems such action as necessary. What is more, the threshold to invoke armed aggression is lower than for armed attack (Art.5 NATO) according to international law. In other words, not every example of armed aggression can amount to armed attack under international law. On the other hand, Art.5 does not allow an opt-out for some Members, as it can be understood from the paragraph 7 of Article 42 of TEU. Art. 42 (7) was invoked only once as response to

¹⁵ European Convention on Human Rights (1950). *Council of Europe Treaty Series*, No. 5 [online]. https://www.echr.coe.int/documents/convention_eng.pdf.

¹⁶ CLAPP, Sebastian and VERHELST, Anne (2022). *Article 5 Washington Treaty (NATO) and Article 42(7) TEU (EU)*. EPRS At a Glance, PE 739.250 – December 2022 [online]. [https://www.europarl.europa.eu/RegData/etudes/ATAG/2022/739250/EPRS_ATA\(2022\)739250_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2022/739250/EPRS_ATA(2022)739250_EN.pdf).

attacks in 2015 on Bataclan. EU-members assisted in anti-ISIS operations in Iraq and Syria and enhanced intelligence-sharing¹⁷.

Furthermore, the Global Strategy 2016 defines also unity, prosperity, engagement, responsibility and partnership as the main principles of EU's external actions. "The Union cannot pull up a drawbridge to ward off external threats. Retreat from the world only deprives us of the opportunities that a connected world presents."¹⁸ The Strategic Compass (2022) adds determination to the list of values and principles. It provides a plan to make EU's security and defence stronger by 2030. The main goals of it are to improve the desire to act, invest not only more, but more wisely and better, secure and partner. Thanks to Strategic Compass, the EU anticipates to become a more capable security provider. The benefit of such Compass is that it clearly outlines the actions with timeline to implement the last¹⁹.

Conflicts are intertwined with state fragility and weak governance²⁰. As it is stated by the Federal Foreign Office of Germany: "Only together the Member States of EU can make their weight felt internationally"²¹.

As the European Security Strategy (2003) claimed we must "think globally, but act locally"²². Realities have changed so far, but something that has not changed so far is EU's devotion to the principles proclaimed in the UN Charter, Helsinki Final Act 1975, Charter of Paris for the new Europe and the Declaration of Principles of international law.

*"It is in the ultimate interest of all these countries to be united, because their influence, their strength and their power will be increased by that unity"*²³

¹⁷ *ibid.*, p.2

¹⁸ European External Action Service (2016). *Shared Vision, Common Action: A Stronger Europe — A Global Strategy for the European Union's Foreign and Security Policy* [online]. https://www.eeas.europa.eu/sites/default/files/eugs_review_web_0.pdf.

¹⁹ Council of the European Union (2022). *A Strategic Compass for a stronger EU security and defence in the next decade* [online]. <https://www.consilium.europa.eu/en/press/press-releases/2022/03/21/a-strategic-compass-for-a-stronger-eu-security-and-defence-in-the-next-decade/>.

²⁰ SARDARYAN, Eliza (2017). *The International Legal Context of the European Neighbourhood Policy after the Treaty of Lisbon*. 1st edition, Baden-Baden: Nomos, p. 19.

²¹ Federal Foreign Office (n.d.). *The Common Foreign and Security Policy (CFSP)* [online]. <https://www.auswaertiges-amt.de/en/aussenpolitik/europe/228280-228280>.

²² Council of the European Union: General Secretariat of the Council. (2009). *European Security Strategy : a secure Europe in a better world*. Publications Office. [online]. p. 33. <https://data.europa.eu/doi/10.2860/1402>.

²³ VALE DE ALMEIDA, Joao (2016). EU–UN cooperation. *Fletcher Forum of World Affairs*, 40(2), 159–162, p. 159.

In 1998, Wolfgang Ischinger, a German diplomat, commented about CFSP: “Much diplomacy, quite respectable amounts of money, but no soldiers”.²⁴ It remarks that CFSP should be substantially reconstructed.

It is recommended to imagine European security and strategic autonomy without the US²⁵. However, strategic autonomy without NATO is now unrealistic, because EU has no own army and relies on the USA for defence input, armaments, assets. It still has insufficient defence spending and fragmentation between countries remains. They perceive threats differently. The EU has limited resources.

Another point to consider is geopolitical fact of EU being under constant threat of Russia. The EU should not only stand for itself physically, but also promote respect for human rights. For example, Manners argues that the EU is a “normative force in world politics”²⁶. It is something that distinguishes the CFSP from traditional power politics. Therefore, the CFSP is directed not only for the inner security of EU, but also on the balance outward the borders. EU serves as a trigger by offering incentives and instrumental bargaining. Francois Duchêne affirmed “new European polity was indeed a new construct in the international firmament. It was a political entity with a powerful trade and economic identity, but a comparatively weak political/security structure. Thus, it might best be characterised as a new ‘civilian power’ in international relations”²⁷.

1.1.3. History of development of EU CFSP

The history of development of a particular policy gives an incredible insight into the genuine purpose, influence, features, problems that could have arisen and, last but not least, helps understand how further the strategy can be improved.

Hans-Georg Erhard, in one of his papers, suggests classifying the history of CFSP formation pursuant to the major treaties: from the Maastricht Treaty to the Treaty of Nice, then from 2000 up to the date of publication of the monograph “The European Foreign and

²⁴ ISCHINGER, Wolfgang (1998). Die Gemeinsame Außen- und Sicherheitspolitik nach Amsterdam – Praxis und Perspektiven. *ZEI Discussion Paper*, C 14/1998.

²⁵ MERKL, Alexander; KOCH, Bernhard; and OVERBECK, Franz-Josef. Die EU als ethisches Projekt im Spiegel ihrer Außen- und Sicherheitspolitik. Baden-Baden: Nomos Verlagsgesellschaft, p. 140.

²⁶ MANNERS, Ian (2002). Normative Power Europe: A contradiction in terms? *Journal of Common Market Studies*, p. 2.

²⁷ DUCHÊNE, François (1972). *Europe’s Role in World Peace*, cited according to TONRA, Ben (2005). *The European Union as a Global Actor*, p. 10.

Defence Policy: positions, problems, perspectives”, namely, 2002²⁸. We would propose the following cornerstones in history of CFSP:

1. Early stages of European Political Cooperation from 1970-1990s, pre-CFSP period;
2. the Treaty of Maastricht in 1992 that laid the legal groundwork for CFSP as a second pillar. This way, the Treaty unleashed an unprecedented drive granting the EU the possibility to adopt common decisions, joint actions and act as a unified identity in external relations;
3. the Treaty of Amsterdam marked the creation of the HR for CFSP;
4. the Treaty of Nice in 2001 that expanded the decision-making and crisis management operations by virtue of the European Security and Defence Policy (ESDP) and marked the beginning of military and civilian missions;
5. the Treaty of Lisbon in 2009 that merged the CFSP and the ESDP into CSDP, the roots of EEAS go back to the Treaty of Lisbon;
6. the modern stage of CFSP that stretches from 2010 up to now and is probably the most unstable period with threats on the borders of EU like Russian full-scale aggression against Ukraine, the Middle East and uncontrolled illegal migration and other intertwining issues. This stage alludes to an apparent shift in global power and leadership. We can observe how many decisions and efforts are being made within EU. The centre of international law has moved to Europe.

As it is well known, the European integration process, initiated by the Schuman Declaration (1950), laid the framework for the European integration process²⁹. The declaration promoted economic, military and political unity. It is noted by some scholar, in 1950, René Pleven proposed the creation of a “European army” as part of the European integration process initiated by European Defence Community, treaty was signed later on 27 May 1952³⁰. Therefore, the Council of Ministers, the Commissariat, as a technical body, the Parliamentary Assembly and the Court were established.

²⁸ МАРТИНОВ, Андрій (2015). *Спільна зовнішня і безпекова політика Європейського Союзу: основні етапи розвитку*. [online]. P.43-61. doi:10.17721/2524-048X.2015.01.

²⁹ ЯКОВІЮК, Іван (2005). *Спільна зовнішня політика і політика безпеки Європейського Союзу: історія питання* [online]. p. 76. https://dspace.nlu.edu.ua/bitstream/123456789/2508/1/Yakovyuk_76.pdf.

³⁰ МУРАВЬОВ, В. І.; МИКІСВИЧ, М. М.; БІЛАС, І. Г. та ін. (2015). *Європейське право: право Європейського союзу*. Підручник у трьох книгах. Книга третя: Право зовнішніх зносин Європейського союзу. Київ: Ін Юре, ст. 41. https://nubip.edu.ua/sites/default/files/u362/pravo_zovnishnih_znosin_ies.pdf.

The first step towards economic integration was the Treaty establishing the European Coal and Steel Community on 18 April 1951. Whilst 1952 marked the beginning of political and military integration through the Treaty establishing the European Defence Community that granted the ECSC the status of an international organisation of a supranational nature, with own military and budget³¹.

A new attempt to introduce political integration, Fouché Plan, took place in 1961, when France offered to create political union in foreign policy, defence and human rights protection³². However, the French President Charles de Gaulle opposed this offer. Then in 1954 was another attempt to unite the foreign policy, namely by the Western European Union, being competent in military matters³³.

France adopted a Memorandum in 1984 that encouraged to renew functioning of WEU³⁴. The former Minister of Foreign Affairs of Belgium, Mark Eyskens, expressed a quite interesting, but critical opinion about the EU in 1991: “Europe was an economic giant, a political dwarf and a military worm”³⁵. Indeed, we can agree with some prejudice/caution, for example, Europe had a strong economy, developed industry and trade, but persisted dependent due to the lack of its own strong defence structures and dependence on NATO and the US in the field of security. Europe could not manage the power it possesses.

The Maastricht Treaty on European Union (TEU) in 1992 provoked the strengthening and acceleration of the integration process³⁶. The EU at that time was based on three pillars: the European Communities, the CFSP, the Police and Judicial Cooperation in Criminal Matters. The main achievement of the Maastricht agreements was the creation of the CFSP³⁷.

³¹ МАРТИНОВ, Андрій (2015). *Спільна зовнішня і безпекова політика Європейського Союзу: основні етапи розвитку*. [online]. P.43-61. doi:10.17721/2524-048X.2015.01.

³² МУРАВЬОВ, В. І.; МИКІЄВИЧ, М. М.; БІЛАС, І. Г. та ін. (2015). *Європейське право: право Європейського союзу*. Підручник у трьох книгах. Книга третя: Право зовнішніх зносин Європейського союзу. Київ: Ін Юре, ст. 42. https://nubip.edu.ua/sites/default/files/u362/pravo_zovnishnih_znosin_ies.pdf.

³³ *Ibid.*, p. 45.

³⁴ *Ibid.*, p. 42.

³⁵ VIILUP, Elina (2015). *The EU, Neither a Political Dwarf nor a Military Worm*, cited according to MIRZOIEVA, Kamila R. (2025). Challenges of the Common Foreign and Security Policy of the European Union after Russia-Ukraine War. *The Journal of Eastern European Law*, 137, p. 173.

³⁶ SIMON, Sven and WILSON, Neil(2017). CSDP and the open method of coordination: Developing the EU's comprehensive approach to security. *Journal of Regional Security*. p.31. <https://core.ac.uk/download/201347718.pdf>.

³⁷ European Union. (n.d.). *Treaty on European Union*. EUR-Lex. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=legisum:4301855>.

Berlin Plus mechanism was developed supporting the implementation of: granting the European Union access to NATO planning capabilities, ensuring the conditions for the transfer of the above-mentioned NATO forces and common resources to the EU for use in EU-led operations; identifying various options for European management of EU-led operations and further defining the role of the Deputy Supreme Allied Commander Europe³⁸.

During its meeting in Helsinki (Finland) in 1996, the European Council decided that Members of EU must have enough capabilities to deploy and maintain for at least one year, within 60 days, military units of 50,000 to 60,000 troops; to conduct consultation, invent an instrument for non-military necessities³⁹. However, we should draw a line between Battlegroups, which emerged later and implied fewr personnel, but both were not assembled.

The Treaty of Amsterdam 1997 also became an important point in the CFSP's development. It highlighted the Union's role in implementing and outlining the scope of the CFSP that covered all areas of foreign and security policy, with the aim of protecting the shared values, interests, independence and integrity of the EU pursuant to the UN Charter⁴⁰. It laid the groundwork for strengthening the security of the Union and out of borders, preserving peace and democracy, the rule of law and respect for human rights and fundamental freedoms (Article J.1)⁴¹. Thanks to CFSP, the Union develops the identity that could lead to the formation of own common defence units. The Treaty interprets two ways of achieving the forementioned ambitions: ongoing cooperation between the members through common information, consultation and coordination (Article J 2); and the gradual introduction of joint action on CFSP matters (Article J 3).

Pursuant to TEU, MS are obliged to actively and unreservedly assist each other in a spirit of loyalty and mutual solidarity and refrain from any action contrary to the interests of the Union or likely to undermine its effectiveness as a cohesive force in international relations⁴². Among the most significant innovations of the Amsterdam Treaty in the field

³⁸ МУРАВЬОВ, В. І.; МИКІСВИЧ, М. М.; БІЛАС, І. Г. та ін. (2015). *Європейське право: право Європейського союзу*. Підручник у трьох книгах. Книга третя: Право зовнішніх зносин Європейського союзу. Київ: Ін Юре, ст. 49. https://nubip.edu.ua/sites/default/files/u362/pravo_zovnishnih_znosin_ies.pdf.

³⁹ Ibid., pp.49-50.

⁴⁰ Reflections on the EU foreign policy objectives behind the 'Integrated Approach' in the response to piracy of Somalia (2009) [online]. p.212. <https://core.ac.uk/download/14435721.pdf>.

⁴¹ Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts (1997). *Official Journal C 340*, 10 November 1997, p. 10.

⁴² Consolidated version of the Treaty on European Union [2016] OJ C 202/13.

of CFSP is the introduction of the position of HR (Articles 18 and 26). After signing Amsterdam Treaty a lot of civilian and military missions were established. It was a long way to shift from purely economic to defence community. To achieve this, the EU obtained the legal basis and appropriate institutional mechanisms to implement military policy independently.

In 2000 the Treaty of Nice was adopted. It stipulated that the CFSP deals with the security of EU, progressive development of CDSP and can lead to military involvement pursuant to Art. 17 TEU. Frankly speaking, the Nice Treaty did not introduce much evolution to the CFSP in comparison with other treaties. However, it introduced enhanced cooperation mechanisms for the first time, when some MS could act separately even if others opted out, but it was last resort tool and needed unanimous approval by the Council⁴³.

On 10 October 2000, the liquidation of WEU was discussed on the summit⁴⁴. To manage the Rapid Reaction Forces, the EU Council set up special bodies on 22 January 2001 in order to control the Rapid Reaction Forces. These defence structures created in 2001 are the Political and Security Committee (PSC), the Military Committee and the Military Staff⁴⁵. The military cooperation was governed by the European Council, whilst the EU Council is responsible for making binding decisions on the actions of the Rapid Reaction Forces. The PSC is managing the political situation and developing decisions for the EU Council.⁴⁶

Eventually, the Lisbon Treaty became a shift across the entire European Union system by eliminating the three-pillar structure and defining the legal basis for CFSP. Also the European Communities were replaced by one single EU. Other achievements include the European Council's capacity to prepare determinations of strategic interests and objectives for all EU external actions, creation of the position of President of the European Council⁴⁷. EEAS and Permanent Structured Cooperation (PESCO) were introduced as well. The CFSP

⁴³ МУРАВЬОВ, В. І.; МИКІСВИЧ, М. М.; БІЛАС, І. Г. та ін. (2015). *Європейське право: право Європейського союзу*. Підручник у трьох книгах. Книга третя: Право зовнішніх зносин Європейського союзу. Київ: Ін Юре, ст. 129. https://nubip.edu.ua/sites/default/files/u362/pravo_zovnishnih_znosin_ies.pdf.

⁴⁴ *ibid.*, p. 45.

⁴⁵ *ibid.*, p. 45.

⁴⁶ МУРАВЬОВ, В. І.; МИКІСВИЧ, М. М.; БІЛАС, І. Г. та ін. (2015). *Європейське право: право Європейського союзу*. Підручник у трьох книгах. Книга третя: Право зовнішніх зносин Європейського союзу. Київ: Ін Юре, p. 50.

⁴⁷ KACZOROWSKA, Alina (2013). *European Union Law*. Fourth edition. London/New York: Routledge, p. 214.

integrated CDSP into the EU framework. We believe that Lisbon Treaty became a major trigger for the CFSP with a lot of new developments.

The modern stage of history of CFSP is highlighted by Global Strategy developed in 2016 and the latest document namely the Strategic Compass created in 2022. The following will be discussed in 2.1 Chapter of this Master Thesis.

1.2. Legal foundations of EU CFSP

1.2.1. The legal framework of CFSP

The provisions governing CFSP are set out in Chapter 2 of Title V TEU. Article 24 TEU establishes CFSP. Articles 23-41 deal with CFSP, whilst Art. 42-47 regulate the Common Security and Defence Policy (CSDP) which is an essential part of CFSP.

Whilst Art. 21 TEU defines general provisions on EU's external actions, principles according to which the external policy is conducted, such as rule of law, promotion of human rights and freedoms, democracy, etc.; objectives that are to be achieved in the process, Art. 22 TEU stipulates that it is the European Council that must identify strategic interests and objectives. Decisions of the European Council may relate to a particular country or region in question and determine the duration and the means by which certain actions will be conducted and that must be given to Member States⁴⁸.

Chapter 2, namely Art. 23-41 TEU, provide specific provisions on CFSP. Art. 24 identifies the extent of the CFSP as covering all areas of foreign policy and all issues of the EU's security that might lead to common defence. It is emphasized in TEU that the CFSP is "subject to specific rules and procedures" (Art.24). Furthermore, it is underlined that the CFSP is defined and implemented by "the European Council and the Council acting unanimously"⁴⁹ with some exclusions according to the Treaties. Importantly, legislative acts within CFSP are not adopted. The main actors who put CFSP into practice are the HR and MS. The European Parliament and the Commission are granted a little power, though not negligible, and their separate role which will be further examined later in the chapter 2.2 of this Master's Thesis. It is also mentioned in the Article the Court of Justice has no jurisdiction with respect to CFSP with the only exception of Art. 40 TEU and 275 TFEU. Part 2 of Art. 24 stresses mutual political solidarity, general interest and the achievement

⁴⁸ Consolidated version of the Treaty on European Union [2016] OJ C 202/13.

⁴⁹ Consolidated version of the Treaty on European Union [2016] OJ C 202/13.

of an ever-increasing degree of convergence of actions. It is worth mentioning that MS must actively and unreservedly support CFSP in a spirit of loyalty and mutual solidarity (Art. 24(3))⁵⁰.

In this context, Art. 25 holds a particular importance, as it provides the ways the EU conducts the CFSP, namely by defining the general guidelines; adopting decisions on actions and positions, arrangements for their implementation; strengthening systematic cooperation between its Members⁵¹.

Art. 26 specifies the role of the European Council, the Council of the European Union, the President of the European Council, the HR. The latter's mandate is further developed in detail in Art. 27 TEU which gives the HR authority to coordinate EU's external actions. Another point to consider is Art. 33, where it is declared that the HR can make a proposal and the Council may appoint a special representative with mandate in a CFSP's matter. Moreover, Art. 28 allows the adoption of decisions by the Council for the operational actions, while Art. 29 TEU regulates the geographical and thematical nature of decisions. Art. 30 TEU provides the possibility to submit initiatives and proposals.

We can find out more about decision-making procedures, qualified majority voting (QMV) and abstentions in Art. 31 TEU. Art. 32 gives us information about consultations within the European Council and the Council. In addition, all the Members shall work as one front and uphold EU's position when participating in international conferences or organizations. They should inform the HR and other countries on the agenda when the latter are absent. When a matter that has already been discussed and defined by the EU is a topic for UN Security Council, the MS shall invite the HR/VP to represent the common position of EU⁵². The HR/VP should also consult the European Parliament and make sure its views are taken into account (Art. 36). In turn, Art. 35 engages with matters of diplomatic and consular missions of MS and EU delegations. Also they are working towards protection and implementation of rights of EU citizens in third countries.

CFSP emphasizes the importance of cooperation with other countries, therefore Art.37 TEU includes the provision on the agreements with third countries in areas that belong to CFSP and external affairs.

An essential element is Art. 38 about the PSC which is entitled to give opinions and monitor international issues that are covered by CFSP sphere of interest. It should also be

⁵⁰ Consolidated version of the Treaty on European Union [2016] OJ C 202/13.

⁵¹ Consolidated version of the Treaty on European Union [2016] OJ C 202/13.

⁵² Consolidated version of the Treaty on European Union [2016] OJ C 202/13.

empowered to exercise political control and direction in operations in crisis management. In certain cases, it is even authorized by the Council to take decisions in such operations.

It is also mentioned, implementation of CFSP shall not interfere in the competences described in Art. 3, 6 of the TFEU, thereby preserving the institutional balance between CFSP and external actions of EU.

The topic of financial agreements is dealt with in Art. 41. It is stated administrative expenditures are financed by the Union's budget, whereas operational ones are likewise funded with the possibility to be financed on another practice by the decision of the Council. A possibility to opt out under Art. 31 is envisaged. Also the provision of finance for initiatives in the CFSP is described there: the Council upon consulting with the Parliament must adopt a decision that will set up the procedure to access the Union budget quickly. The preparatory activities for actions according to Art.42 (1), 43 that are not financed by the Union budget must be funded by start-up fund. It is one of rare examples when the Council can act with qualified majority and is connected to start-up fund. Section 2 deals with the CSDP that is a part of CFSP.

The Treaty on the Functioning of the European Union has relatively less provisions that may be relevant for CFSP, but it is worth to mention Art.222 TFEU that contains solidarity clause.

Nowadays, Art. 215 TFEU about restrictive measures, sanctions is resorted to in the geopolitical context. It is possible to deploy restrictive measures by the Council acting by QMV upon proposal of the HR⁵³. These measures may include interruption of economic and financial relations and can be imposed on natural or legal persons, non-State entities or groups. Otherwise, decision may be implemented by the MS through visa ban or arms embargo after the Council allows⁵⁴.

The legal framework of CFSP shows that it is not a typical supranational EU policy, but an intergovernmental one, often considered to be soft law by many scholar. As was mentioned above, its nature is different because it does not allow adoption of legislative acts. It brings about some consequences for administrative law, therefore "delegated acts and comitology are also excluded, and the principles of subsidiarity and legislative transparency do not apply"⁵⁵. Its legal instruments are based on political consensus and

⁵³ CREMONA, Marise (2017). "Effective Judicial Review Is of the Essence of the Rule of Law": Challenging Common Foreign and Security Policy Measures Before the Court of Justice. *European Papers*, 2(2), p.676 [online].

https://www.europeanpapers.eu/system/files/pdf_version/EP_eJ_2017_2_11_Article_Marise_Cremona_00173.pdf.

⁵⁴ *Ibid.*, p. 676.

⁵⁵ *Ibid.*, pp. 674-675.

executive decisions, being quite a hybrid policy. It acts as a compromise between supranationalism and intergovernmentalism.

What is more, the scholar argue that CFSP norms are “soft law”⁵⁶. Indeed, a lot of CFSP programmes, documents and actions are political and declaratory without any legal binding mechanism to impose liability. The MS will not see punishment for non-compliance or non-implementation, even when the act is binding, through sanctions due to the fact the Commission is not capable of launching an infringement procedure in this policy and the Court of Justice has limited jurisdiction.

1.2.2. Features of CFSP

The CFSP, being a brainchild of European Union’s attempts to integrate efforts of its MS, is a policy that is different from other external policies, despite the fact they also include “Common” in the title, these are Common Commercial policy, Common Security and Defence Policy. This adjective underpins the commonality of the purpose, yet all of them are different in subject matter, legal framework or implementation process. The EU developed a legal environment for these policies to thrive as a “coherent whole”⁵⁷.

From a policy perspective, it can be concluded that the CFSP has a hybrid nature, possessing the ability to use both the soft power and the hard power⁵⁸. This mechanism can be associated with carrot and stick method, when soft power is achieved through cooperation, dialogue, association, on the other hand, hard power is deployed through sanctions, tariff barriers, military or civil missions and others. Federica Mogherini said in the Global Strategy 2016: “For Europe, soft and hard power go hand in hand”⁵⁹. We believe that CFSP can influence not only the neighbourhood, but also the whole world. It can be concluded that so far the EU has been more inclined to use “carrots”. As Franco Algeri argues that institutions can “strengthen the EU's potential power, and by promoting a regulatory framework such as effective multilateralism, this potential can shape dealings

⁵⁶ GORGILADZE, Marita (2024). Challenges of the Common Foreign and Security Policy of the European Union after Russia-Ukraine War. *Teisé*, 130. [online], p. 47. <https://doi.org/10.15388/Teise.2024.130.4>: <https://orcid.org/0009-0005-5355-2321>.

⁵⁷ Arnull, Anthony, and Damian Chalmers. *The Oxford Handbook of European Union Law*. Oxford: Oxford University Press, 2017. Print. p. 272.

⁵⁸ ALGIERI, Franco (2010). *Die Gemeinsame Außen- und Sicherheitspolitik der EU*. 1. Auflage. Wien: facultas.wuv / UTB, p. 135.

⁵⁹ European External Action Service (2016). *Shared Vision, Common Action: A Stronger Europe — A Global Strategy for the European Union’s Foreign and Security Policy* [online], p. 4 . https://www.eeas.europa.eu/sites/default/files/eugs_review_web_0.pdf.

with other actors”⁶⁰. It can be inferred that EU with the CFSP is the normative power. “Normative power”, notably, was created by Ian Manners regarding EU’s position in global politics with influence through soft power and norms⁶¹. However, the author suggests that the leadership in international relations demands the potential for power and the successful achievement of goals, otherwise it is likely that EU may be considered powerless⁶². Nowadays, we observe a slow shift to military and political actor. The SAFE Regulation, national escape clause and draft EU defence industry programme facilitate the investments in the European defence industrial base, but they are not part of the CFSP strictu sensu. Real achievement of European security depends on the readiness to sacrifice comfort and current level of life. Not all European countries are ready to deviate from their national interests or prioritize the higher purpose and peace when it comes to some restrictions of their budget.

As Panos Koutrakos in the Oxford Handbook of European Union Law mentioned DNA of CFSP is largely described with two distinct features: “its dynamic and incremental development, shared by practical considerations, emerging informally and then formalized and consolidated to adjust to any considerable amendment of the Union’s constitutional structure”⁶³. While the second one is the separate placement and role in EU’s legal order. It is clearly defined as intergovernmental (decisions are made by MS, not EU institutions like the European Commission or European Parliament), excluded from Court of Justice jurisdiction and characterized by unanimous voting procedure in most cases (Art. 24 TEU with later changes by the Lisbon Treaty provisions) contrasting to established rules for other branches of EU’s endeavours⁶⁴. The duties of MS in CFSP are reminiscent of the obligation under some cooperation agreements. After adoption of Lisbon Treaty, de-pillarization and shift in EU structure happened, thus the role of CFSP with clearly defined objectives can make it mainstream of EU law.

Also the language of integration is remarkable, for example, the main tool for CFSP is decisions typical for any area of EU law. With adoption of Lisbon Treaty, joint actions,

⁶⁰ ALGIERI, Franco (2010). *Die Gemeinsame Außen- und Sicherheitspolitik der EU*. 1. Auflage. Wien: facultas.wuv / UTB, p. 135.

⁶¹ MANNERS, Ian (2002). Normative Power Europe: A Contradiction in Terms? *Journal of Common Market Studies*, 40(2). P. 236.

⁶² ALGIERI, Franco (2010). *Die Gemeinsame Außen- und Sicherheitspolitik der EU*. 1. Auflage. Wien: facultas.wuv / UTB, p. 136.

⁶³ CHALMERS, Damian and ARNULL, Anthony (eds.) (2015). *The Oxford Handbook of European Union Law* [online]. Oxford: Oxford University Press, p. 281. <https://doi.org/10.1093/oxfordhb/9780199672646.001.0001>.

⁶⁴ *ibid.*, p. 282.

common positions and common strategies as instruments were substituted by decisions. They used to be adopted predominantly by unanimous voting pursuant to Art.31 (1) TEU, but thanks to Lisbon Treaty some alleviation with qualified majority is allowed in the following cases:

- 1) the HR made proposal after request of the Council and now a decision should be adopted to define the action or position;
- 2) in case the Council itself decides by common consent that can operate on QMV basis.

The possibility of absentions is another feature. This tool can be applied after formal declaration of the Member (pursuant to Art.31 TEU), thus meaning it will not approve of decision, but refrain from any actions that can impede its implementation. However, if 1/3 of MS that totally amount to 1/3 of EU's population abstain from decision, it will not be adopted.

The EU defines joint actions, joint declaration, common positions as instruments of the CFSP. These are not typical for all areas. This way, Members can determine EU stance on a certain issue, carry out missions and actions.

Another important aspect to consider is exemption from the Court of Justice jurisdiction. There are some exclusions as well, namely the Court is entitled to oversee compliance with Art. 40 TEU and make sure actions within CFSP are indeed implemented and review the conformity to law of decisions for restrictive measures of Council against natural and legal persons.

In this context, the case of H is a vibrant example of the complexity of accountability in CFSP. It highlights the limits of the judicial review. To commence, a national official sent to the EU's Police Mission in Bosnia and Herzegovina (EUPM) desired to appeal a decision of the Head of Mission. The complaint to the General Court was directed initially against the Council, Commission and the EUPM. In an Order refusing an application for the interim suspension of the decision, the President of the General Court explained that the EUPM is a "simple activity" of the Union, it did not possess the status of a body, office or agency according to Art. 263 TFEU⁶⁵.

⁶⁵ CREMONA, Marise (2017). "Effective Judicial Review Is of the Essence of the Rule of Law": Challenging Common Foreign and Security Policy Measures Before the Court of Justice. *European Papers*, 2(2),pp.678.

As a result, it was concluded that it does not have jurisdiction in such a case, in lieu a case must have been filed to the Council. The national official could have also initiate a court proceeding in the national court of the country by which he was sent to the EUPM. The General Court's jurisdiction in CFSP was limited and such a case was not covered by it. As it is stated "Operational control is transferred by the seconding State to the Civilian Operation Commander and command and control is to be exercised by the Head of Mission"⁶⁶. The case should have been decided by an Italian court. Despite the fact, General Court had limited powers under Art. 275 TFEU, the right to effective remedy is still protected⁶⁷. Furthermore, the Court of Justice considered case was inadmissible against the Commission, as it did not deal with neither contractual nor budgetary issue. Indeed, the Commission is not responsible for such a police mission. The Head of the Mission is actually subordinate of the PSC and the HR and the Council in the top of this pyramid⁶⁸.

Most of the rules governing the CFSP are laid down in TEU, not TFEU like in other fields of external relations of EU. The CFSP cannot be considered as exclusive, shared, supplementing and coordinating competence, rather a special fourth category⁶⁹. In this respect, Art. 24 TEU highlights that it is outside the aforementioned competencies by stating it is "subject to specific rules and procedures"⁷⁰.

It must be acknowledged that the CFSP possesses a clearly separate nature. Thus, pursuant to Art. 40 TEU its "implementation...shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the Treaties for the exercise of the Union competences"⁷¹. This way, the EU emphasizes the CFSP is so valuable that it should be safeguarded from any interference.

[online].

https://www.europeanpapers.eu/system/files/pdf_version/EP_eJ_2017_2_11_Article_Marise_Cremona_00173.pdf.

⁶⁶ CREMONA, Marise (2017). "Effective Judicial Review Is of the Essence of the Rule of Law": Challenging Common Foreign and Security Policy Measures Before the Court of Justice. *European Papers*, 2(2), p.678. [online].

https://www.europeanpapers.eu/system/files/pdf_version/EP_eJ_2017_2_11_Article_Marise_Cremona_00173.pdf.

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

⁶⁹ ARNULL, Anthony, and CHALMERS, Damian. *The Oxford Handbook of European Union Law*. Oxford: Oxford University Press, 2017. Print. p. 284.

⁷⁰ Treaty on European Union (TEU), consolidated version (7 February 2012). *OJ C 326, 26 October 2012*, Art. 24.

⁷¹ Treaty on European Union (TEU), consolidated version (7 February 2012). *OJ C 326, 26 October 2012*, Art. 40.

The rule of unanimity voting is an essential principle that is caused by sensitive nature of subject matter, high stakes in international relations, high risk to interfere sovereignty and hot topic measures like war, high politics due to this Members are reluctant to cede decision-making. The measures require compromise and negotiation of Members to reach the most suitable option that would not in ideal undermine any country. Therefore, unanimity can act as a safeguard to protect state prerogatives when it comes to defence, military, war, diplomacy issues. It ensures that no state will be made to act against its national interests with exclusion mentioned before in form of abstention.

On the other hand, a lot of scholar argue that actually unanimity undermines EU progress due to the fact it is sophisticated to reach decision and develop the European identity. In fact, much more progress was observed when QMV was established, particularly in internal market when adopting the Single European Act⁷². In contrast, it is difficult to reach broad agreement in the CFSP because it correlates with national sovereignty questions. We believe that in cases of emergency when war breaks out or other threat to EU, it is important to react rapid and QMV would benefit more, win time and lifes. Unanimity can impede a lot of processes and cause uncertainty. It can slow down the response as some countries prefer neutrality.

Last but not least, the CFSP has some unique bodies to pursue its goals. The post of the HR shows the attempt to provide a face of the EU on international arena who will represent the joint position of Members. That post also is granted with the support of EEAS that is considered one of the most valuable shifts reached with the Lisbon Treaty.

1.2.3. Legal instruments, procedures and mechanisms of decision-making

The EU tries to become a responsive anticrisis manager and guarantor of safety different from other organizations like NATO or UN. EU's main distinct feature is a huge range of instruments in possession starting with diplomatic, political and eventually including economic and structural ones. The complex approach the EU uses in crisis was encompassed in numerous programmes like European Security Strategy (2003), Global Strategy (2016), Strategic Compass (2022), White Paper: European Defence and ReArm EU/Readiness 2030 that presented list of threats, criteria to assess risk and the “golden

⁷² CHALMERS, Damian and ARNULL, Anthony (eds.) (2015). *The Oxford Handbook of European Union Law* [online]. Oxford: Oxford University Press, p. 284. <https://doi.org/10.1093/oxfordhb/9780199672646.001.0001>.

standard” of instruments for its settling⁷³. Since the EU as an alliance is primarily guided by its catalogue of norms and values, instruments from the political toolbox also take precedence in external action.

It is widely popular to stumble upon division of instruments into political and tactical ones. Thus, political instruments represent all the tools at disposal of EU to convey its opinion on an issue. They can include declarations, political dialogue, restrictive measures against countries or their heads of governments, presidents, etc. We have noticed that EU set a focus on political instruments during history. Other relatively stronger instruments were used as well as part of military missions.

The new approach towards CFSP is laid down in Art. 25, where new instruments are identified. It is established that “The Union shall conduct the common foreign and security policy by:

(a) defining the general guidelines;

(b) adopting decisions defining:

(i) actions to be undertaken by the Union;

(ii) positions to be taken by the Union;

(iii) arrangements for the implementation of the decisions referred to in points (i) and (ii); and by

(c) strengthening systematic cooperation between Member States in the conduct of policy”⁷⁴.

1.2.3.1. Legal instruments

a) Decisions

Instead of common positions, strategies and actions now the EU adopts decisions. Decision is the most important type of legal instrument in CFSP that enables to define and implement its external actions in specific concrete operational, diplomatic or strategic

⁷³ СУРІЛОВА, Олена (2025). Спільна зовнішня політика та політика безпеки Європейського Союзу: сучасні виклики. Конституційні виклики та захист прав людини. In: *Європейські орієнтири розвитку України: нові виміри у воєнний час* [online], p. 218. Одеса: Фенікс. <https://dspace.onua.edu.ua/server/api/core/bitstreams/5558b3d2-cfcc-4637-8317-c388d0f4ae8f/content#page=218>.

⁷⁴ Consolidated version of the Treaty on European Union [2016] OJ C 202/13.

terms. This distinction was abolished, leaving only the Council decision, which is binding by nature. However, if it is addressed only to specific addressees, it is binding only on them⁷⁵ (Article 288 TFEU). The decision can be both legislative or non-legislative, thus decisions addressed to specific recipients that are not adopted by legislative procedure are non-legislative acts. It is worth mentioning that they are quite common in CFSP. Three kinds of decisions are adopted: actions to be undertaken, positions and arrangements for implementation.⁷⁶

Decision under Art.31 TEU must be adopted by the European Council and the Council acting unanimously. Only in certain cases envisaged by the Treaties qualified majority is acceptable. In December 1999, in Helsinki (Finland), the EU Common Strategy on Ukraine was adopted and thereby recognized Ukraine as an important partner that can benefit from priorities in the economic and political sphere⁷⁷. So it is an example of common strategies of EU. Pursuant to Art. 22 of TEU now the European Council adopts **decisions on strategic interests and objectives** in lieu of “common strategies”. The decisions on strategic interests and objectives can refer to specific countries or region and define approaches or timelines.

The previous “common actions” were transformed in Art.28 of TEU, thus, the Council of EU adopts **decisions where the international situation requires operational actions**. These acts define the objectives, boundaries and tools that can be used. If it is necessary, the principles or objectives underlying in decisions are reviewed. MS provide information accordingly to have consultations in time. They also may adopt measures themselves in case of emergency with immediate notice to the Council.

The Council also adopts decisions on joint actions, for example, on peaceful police missions in Afghanistan in 2010. In Art. 29 of TEU it is stated that “The Council shall adopt decisions which shall define the approach of the Union to a particular matter of a geographical or thematic nature”⁷⁸.

⁷⁵ Consolidated version of the Treaty on the Functioning of the European Union (2012). *OJ C 326, 26 October 2012, pp. 47–390*, Art. 288.

⁷⁶ LONARDO, Luigi (2022). *EU Common Foreign and Security Policy After Lisbon: Between Law and Geopolitics*. Cham: Springer, p. 77.

⁷⁷ LIGHT, Margot (2007). *The Evolution of EU policy towards its CIS neighbours*. Warsaw: CASE – Center for Social and Economic Research (Studies & Analyses No. 341) [online], p. 9 . <https://www.files.ethz.ch/isn/105211/341.pdf>

⁷⁸ Consolidated version of the Treaty on European Union [2016] OJ C 202/13.

“Common positions” were an important mechanism for responding to international events and situations, for example the EU adopted a Common Position on combating terrorism, aimed at implementing the UN Security Council resolution as response to the terroristic attack in the United States on 11 September 2001, when EU helped by police and judicial cooperation, reconstruction of Afghanistan, air transport security, economic measures and emergency preparedness⁷⁹. Art. 34 of TEU extends the scope of positions as in international organisations MS must coordinate actions and represent and defend the common position of EU. Decisions on common positions can be adopted on different topics, for example supporting peaceful and democratic processes in third countries or fight with terrorism (Common Position 2001/930, Council Decision 2010/232 renewing restrictive measures against Burma/Myanmar).⁸⁰

b) General guidelines

Another important legal act is general guidelines adopted by the European Council pursuant to Art. 26 (1) of TEU. The European Council unanimously adopts the necessary decisions, setting out the objectives and general guidelines. It also determines the overall objectives and strategic guidelines for the CFSP. The Council of the EU shapes the CFSP and takes the decisions necessary for the definition and implementation of this policy on the basis of the general guidelines and strategic objectives laid down by the European Council⁸¹.

c) Restrictive measures

One of the most frequently used instruments is sanctions. 47% of all CFSP measures or decisions on a current stage involve sanctions. Art. 31 (2) and Art. 29 of TEU are used to impose sanctions. Article 215 of TFEU allows the Council to adopt restrictive measures against natural or legal persons and groups or non-state entities⁸². However, these measures should be adopted under Art. 19 of TEU, and this will ensure that decisions are applied uniformly in all MS. One of the most used restrictive measures is sanctions.

⁷⁹ МУРАВЬОВ, В. І.; МИКІСВИЧ, М. М.; БІЛАС, І. Г. та ін. (2015). *Європейське право: право Європейського союзу*. Підручник у трьох книгах. Книга третя: Право зовнішніх зносин Європейського союзу. Київ: Ін Юре, р. 69.

⁸⁰ *Ibid.*

⁸¹ Consolidated version of the Treaty on European Union [2016] OJ C 202/13.

⁸² Treaty on the Functioning of the European Union. (Consolidated version 2012). OJ C 326, 2012.

There have been 18 EU sanction's packages against Russia. The last one was enacted on the 18 August 2025 and included economic, financial and trade leverages. Kaja Kallas, the current HR, said: "The EU just approved one of its strongest sanctions packages against Russia to date. Each sanction weakens Russia's ability to wage war. The message is clear: Europe will not back down in its support for Ukraine. The EU will keep raising the pressure until Russia ends its war⁸³."

Now we should examine the procedure for sanctions. Gorgiladze Marita explains the procedure on adoption of sanctions. First and foremost, the HR/VP makes a proposal. Afterwards, the measures are discussed by the Council preparatory bodies: "the Council working party for the region, the Working Party of Foreign Relations Counsellors Working Party...the Political and Security Committee, the Committee of Permanent Representatives"⁸⁴.

She continues that the Council later adopts a decision unanimously. Some matters like freezing assets or other financial sanctions require the Council Regulation for which the HR together with the Commission must submit a joint proposal. RELEX assesses the joint proposal and proceeds it to COREPER and the Council for approval. The latter shall inform the European Parliament that the Council regulation was adopted. This Council regulation should define the exact scope and details of the sanction. After publication in the European Union's Official Journal, it comes into force. The MS will therefore execute or deploy the measures (visa bans or embargos), and the Commission is responsible to control if the MS complies with the sanction. The individuals and entities against whom sanctions are imposed are informed by letter through the notice of the Council. If UN makes a decision relevant for the matter, the restrictive measure is changed or reviewed, but usually they are ad infinitum, namely without time limits. Every 12 months, sanctions are subject to review. The Council decisions imposing sanctions are effective, but the Council rules in addition to them are ad infinitum. The Council can change or suspend sanctions when it is required. Arms embargo, asset freezes, travel bans belong to restrictive measures too⁸⁵.

⁸³ European External Action Service (2025). *Russia's war of aggression against Ukraine: EU adopts 18th package of economic and individual measures* [online]. https://www.eeas.europa.eu/delegations/ukraine/russia%E2%80%99s-war-aggression-against-ukraine-eu-adopts-18th-package-economic-and-individual-measures_en?s=232.

⁸⁴ GORGILADZE, Marita (2024). Challenges of the Common Foreign and Security Policy of the European Union after Russia-Ukraine War. *Teisé*, 130. [online], p. 48. <https://doi.org/10.15388/Teise.2024.130.4>: <https://orcid.org/0009-0005-5355-2321>.

⁸⁵ GORGILADZE, Marita (2024). Challenges of the Common Foreign and Security Policy of the European Union after Russia-Ukraine War. *Teisé*, 130. [online], p. 48. <https://doi.org/10.15388/Teise.2024.130.4>: <https://orcid.org/0009-0005-5355-2321>.

In practice, Council conclusions are frequently employed on CFSP issues, because such acts formally define the EU's position on particular issues of high political importance, for example, conflicts, and give a specific signal or call for action. The European Council only takes action when a particularly strong political signal is to be made, in this way it can steer the EU's political agenda. In this case, the conclusions contain political guidelines for the Council on the implementation of sanctions⁸⁶.

In addition, the CFSP uses EU delegations, political dialogue and civilian and military missions as instruments to attain its objectives.

1.2.3.2. Decision-making

EU acts in CFSP is non-legislative pursuant to Art. 24 TEU. This leads us to the fact that directives and regulations cannot be adopted. Decision-making is conducted unanimously as a rule. However, there are some exceptions when QMV is applicable.

The European Council unanimously adopts the necessary decisions, setting out the objectives and general guidelines⁸⁷. Pursuant to Art. 31 of TEU the Council of the European Union shapes the CFSP and takes decisions necessary for the definition and implementation of this policy on the basis of the general guidelines and strategic objectives laid down by the European Council (Art. 26 of TEU).

The same procedure applies to certain issues of a geographical or thematic nature, in which the Union's position is determined. The MS then ensure that their national policies are consistent with the Union's positions (Article 29 of TEU).

However, there is possibility of abstention, according to which a MS may submit a formal declaration with reasoning. Then this decision is not binding for that country, but it is still obliged to accept that this decision will serve for the EU and such a country must refrain from actions that can undermine its implementation. Some decisions may be too sensitive and far-reaching for the Members. Therefore, when 1/3 of Member States that represent at least 1/3 of population abstains from it, then it is a clear sign that the decision will not be adopted⁸⁸. Such a huge number highlights that decision was not thoroughly

⁸⁶ Federal Ministry for European and International Affairs (n.d.). *EU Foreign Policy (CFSP)* [online]. <https://www.bmeia.gv.at/en/european-foreign-policy/european-policy/eu-foreign-policy/eu-foreign-policy-cfsp>.

⁸⁷ Consolidated version of the Treaty on European Union [2016] OJ C 202/13.

⁸⁸ Consolidated version of the Treaty on European Union [2016] OJ C 202/13.

developed, lacks political support and its adoption may burden countries by imposing disproportionate obligations. It is foreseen 4 cases when abstention is applicable:

1. “for decisions on action or position that is based on the strategic interest decision of European Council under Art.22 (1) of TEU about strategic interests,
2. when defining action or position upon request from the European Council on HR’s proposal,
3. any decision on implementation of action or position,
4. under Art. 33 for appointment of special representative”⁸⁹

Sometimes exclusions from QMV can be made, when it comes to military matters, a MS can abstain when national interests are countering, as a result HR leads consultations to solve that and if no solution is reached, the Council can refer to European Council to adopt by unanimity⁹⁰. We believe that rule of unanimity is detrimental as it impedes the processes and can block decisions. When war starts, the actions must be immediate. Qualified majority can save time and increase EU mobility. As it was mentioned before, the CFSP is mostly soft law, therefore no sanctions for non-implementation follow. The CFSP process on States can be classified into information, consultation and implementation.⁹¹

MS must consult on CFSP matters of general interest, but it is not specified what is implied under this notion.

⁸⁹ Chalmers, D., Davies, G., & Monti, G. (2011). *European Union law : cases and materials* (2nd ed.). Cambridge University Press. P.663.

⁹⁰ *ibid.*, p. 663.

⁹¹ LONARDO, Luigi (2022). *EU Common Foreign and Security Policy After Lisbon: Between Law and Geopolitics*. Cham: Springer, p. 77.

2.1. Purpose of EU Common Foreign and Security Policy

2.1.1. Objectives of the CFSP

The whole CFSP is governed by the list of objectives. Every decision, sanction or position must be in conformity with the CFSP objectives. Due to the specific nature and distinct place in EU law, the objectives play a pivotal role in balancing EU external actions. Art. 21 of TEU defines the main aims of EU external actions, these are the following:

“(a) safeguard its values, fundamental interests, security, independence and integrity;

(b) consolidate and support democracy, the rule of law, human rights and the principles of international law;

(c) preserve peace, prevent conflicts and strengthen international security, in accordance with the purposes and principles of the United Nations Charter, with the principles of the Helsinki Final Act and with the aims of the Charter of Paris, including those relating to external borders;

(d) foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;

(e) encourage the integration of all countries into the world economy, including through the progressive abolition of restrictions on international trade;

(f) help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development;

(g) assist populations, countries and regions confronting natural or man-made disasters; and

(h) promote an international system based on stronger multilateral cooperation and good global governance”⁹².

These objectives underline EU’s eagerness to become a normative power. However, they are relevant for all external actions, CFSP as well. The specific objectives

⁹² Consolidated version of the Treaty on European Union (2012). *OJ C 326, 26 October 2012, pp. 13–46*, Art. 21(2).

of CFSP are laid down in Art. 23-24 TEU. Art. 24 TEU, though, states CFSP should be conducted according to principles and objectives of general provisions on external actions. Furthermore, Art. 24 TEU emphasizes notions of security, progressive framing of a CSDP, loyalty, mutual political solidarity, identification of questions of general interest, ever-increasing degree of convergence of actions.

In 2016, the Global Strategy was developed, aiming to declare core interests and principles for interaction with third countries. It was supposed to deepen the common sense of direction⁹³. Furthermore, Global Strategy establishes mechanisms and procedures for conducting CFSP and nurtures the strategic autonomy of the EU. In context of challenges, the Global Strategy pursues to make EU efficient in terms of energy security, migration, climate change, violent extremism and, last but not least, hybrid threats⁹⁴. Federica Mogherini, the former HR, started the foreword with an interesting phrase that makes us think thoroughly: “The purpose, even existence, of our Union is being questioned”⁹⁵. This quote emphasizes how vital the topic of this Master’s thesis is. This way, five broad priorities were approved of by the Council:

1. **security and defence** – to foster protection of the EU, deter and respond to crisis, assist governments jointly improve military capacity, because EU’s “security at home depends on peace beyond our borders”⁹⁶. For this purpose, European defence action plan was developed, CDSP together with the European Border and Coast Guard had to secure borders and ensure maritime safety to prevent cross-border crime and smuggling⁹⁷;

2. **state and societal resilience** means proliferation of good governance and bonding with civil society, with main focus on the East and the South, including targeting acute challenges in Western Balkans, Tunisia, Georgia and Turkey⁹⁸, cooperation thanks to European Neighbourhood Policy;

⁹³ European External Action Service (2016). *EU foreign and security policy — Global Strategy* [online]. EUR-Lex summary page. <https://eur-lex.europa.eu/EN/legal-content/summary/common-foreign-and-security-policy-global-strategy.html>.

⁹⁴ *Ibid.*

⁹⁵ European External Action Service (2016). *Shared Vision, Common Action: A Stronger Europe – A Global Strategy for the European Union’s Foreign and Security Policy* [online], p. 3. https://www.eeas.europa.eu/sites/default/files/eugs_review_web_0.pdf.

⁹⁶ *Ibid.*, p.7.

⁹⁷ *Ibid.* p. 9.

⁹⁸ *Ibid.*

3. **integrated approach to conflicts and crises** – assistance during the whole process of conflict with the use of all the leverages, while working on prevention, responding decisively, stabilisation, and excluding premature disengagement⁹⁹;

4. **cooperative regional orders** imply development of voluntary forms of regional governance with a view to reap the economic gains of globalisation, foster influence in foreign affairs and respond to conflicts efficiently¹⁰⁰;

5. **rules-based global governance** which is based on international law, desire to transform the system, commitment to rules-based multilateral international order, expansion of membership and implementation of Paris agreement.¹⁰¹

European Union must become credible, joined-up and responsive¹⁰². It concentrates also on counter-terrorism fight by fostering intelligence sharing, alerts on violent extremism, checking media for spreading such unlawful information, enhancement of fast recovery of countries after terrorist attack. EU plans to fight cybersecurity threats through innovative information and communication technology that ensure availability and integrity of data. This can be achieved by deepening public-private relations and sharing of information between institutions. The EU should mitigate the risks, secure critical infrastructure and preserve safe and open EU cyberspace¹⁰³.

The Global Strategy also deals with energy security, therefore diversifying energy resources, predominantly gas sources, enhancing the nuclear safety standards in third countries is set as a top priority. Taken into account, the current situation, when EU gradually started to refuse importing Russian gas, we believe that EU failed its mission as in 2024 EU imported 52 billion cubic meters of Russian gas, which amounts to 19% of the EU's total gas imports¹⁰⁴. These numbers prove a strong defiance of the objectives in the energy sphere set out in the Global Strategy in the far 2016. The recent developments include developing tools to fight 'shadow fleet', namely vessels trying to dodge sanctions.

The Global Strategy involves multifaceted approach to the third countries. The EU supports a point that "repression suffocates outlets for discontent and marginalises

⁹⁹ European External Action Service (2016). *Shared Vision, Common Action: A Stronger Europe – A Global Strategy for the European Union's Foreign and Security Policy* [online], p. 9. https://www.eeas.europa.eu/sites/default/files/eugs_review_web_0.pdf.

¹⁰⁰ *ibid.* p. 10.

¹⁰¹ *ibid.*, pp. 9-10.

¹⁰² *ibid.* pp.10-11.

¹⁰³ *ibid.* pp. 21–22.

¹⁰⁴ Тетяна Висоцька. (2025, May 6). *ЄС повністю відмовиться від російського газу до кінця 2027 року*. European Pravda [online]. <https://www.eurointegration.com.ua/news/2025/05/6/7211003/>.

communities”¹⁰⁵. Therefore, it promotes human rights, international law, UN principles, actively engages in dialogue, creates tailor-made decisions.

A multi-dimensional approach to conflicts by all the means at EU’s disposal to prevent, manage and resolve such crises is a game-changer. Having gathered some knowledge from Somali, Mali and Afghanistan missions, EU now comprehends fully the nature of such conflicts. All of such require a multiple-level governance at local, regional and international arena. Pre-emptive peace is the bedrock of effective crises management, because it is easier to prevent the war, then to solve it when the world is rattled by images of carnage. It may unexpectedly erupt, but for that reason EU deploys diplomatic missions, EU Delegations and Special Representatives, sharing of information, regular reporting to the Council. EU must encourage ceasefire and deliver the basic services for local during conflicts. The EU implemented dual nature approach-security and development, thus ensuring post conflict situation improves and the risk of resumption is low. The CFSP strives to achieve political economy through restrictive measures that are thoroughly thought out to affect aggressor’s economy.

2.1.2. Strategic Compass 2022-2030 and the White Paper on European Defence-Readiness 2030

The EU has continued to develop capabilities and unity by adopting Strategic Compass. The Strategic Compass since 2022 takes into account the changed security situation in Europe and the duration of Compass extends to 2030¹⁰⁶. It is a concrete strategy to develop the EU cooperation on security and defence. It sets objectives for enhancing military capabilities, for strengthening resilience, for making the EU’s rapid response and crisis management capabilities more effective, for improving military mobility and for enhancing the EU’s interoperability¹⁰⁷. The Strategic Compass is an important plan of EU to make its defence more secure and reliable by 2030. It was adopted on 21 March 2022, a couple of weeks after war in Ukraine started on 24 February 2022. The realities have changed so far drastically, but the plan is a guide the EU uses to manage the war too. The EU has unequivocally touted solidarity with Ukraine not only by expressing deep concerns,

¹⁰⁵ European External Action Service (2016). *Shared Vision, Common Action: A Stronger Europe – A Global Strategy for the European Union’s Foreign and Security Policy* [online], p. 26. https://www.eeas.europa.eu/sites/default/files/eugs_review_web_0.pdf.

¹⁰⁶ European External Action Service (2022). *A Strategic Compass for Security and Defence* [online] . https://www.eeas.europa.eu/eeas/strategic-compass-security-and-defence-1_en.

¹⁰⁷ *ibid.*

but also by sanctions, investment, financial grants, arms or equipment delivery, trainings, medical and humanitarian supplies, refugee acceptance.

Strategic Compass is aimed at making EU stronger and ready to react to crises in such dire situation since 2022, because practice showed reliance on external source can be risky. Strategic Compass sets out some actions, timeline and objectives. Being a complex strategy, it can increase the security of citizens, improve strategic autonomy and strengthen international cooperation. Strategic Compass concentrates on capability development, resilience, crisis management, partnerships to ensure comprehensive approach.

The Strategic Compass is founded on 4 main pillars: to act, to secure, to invest and to partner¹⁰⁸. Each section has a list of set out priorities that must be achieved.

When it comes to section “to Act”, the EU claims to develop Rapid deployment capacity in number of 5000 troops to tackle crises of various nature. It is declared to improve the military mobility and therefore undergo regular live exercises on land, at sea, in cyber and outer space, in the air. Such an approach will allow to act promptly without unnecessary delay. For this reason, EU plans to develop an integrated approach that will involve civilian and military missions of CSDP mentioned in Art.43 of TEU. However, the backlash to react robust and rapid lies in the unanimity rule for decision-making. The EU commits, though, to provide more flexible decision-making through constructive abstention. Through Art.44 of TEU it is planned to allow some members interested in operations or missions to conduct them under the Council’s oversight¹⁰⁹. In the context of Sahel, Horn of Africa, Strait of Hormuz, it was mentioned that CSDP missions and European-led ad hoc ones should mutually support each other through logistics, intelligence provision, joint medical evacuation and coordination. What is more, the developments include introduction of modular mandates for missions¹¹⁰.

Regarding maritime sphere, EU commits to enhance the Coordinated Maritime Presences in the Gulf of Guinea, North-West of Indian Ocean and develop the existing crews in the Mediterranean and Somali Coast. Improving civilian CSDP missions is crucial to prevent the irregular migration, terrorism, radicalization, violent extremism. Under this Strategy EU must be able to deploy 200 CSDP mission experts within 30 days even in

¹⁰⁸ Council of the European Union (2022). *A Strategic Compass for Security and Defence* (ST-7371/22) [online], p. 13. <https://data.consilium.europa.eu/doc/document/ST-7371-2022-INIT/en/pdf>.

¹⁰⁹ *ibid.*, pp. 3-4.

¹¹⁰ *ibid.*, p. 15.

dangerous background. Within Strategic Compass, closer cooperation with EUROPOL, EUROJUST, CEPOL and the European Border and Coast Guard Agency (FRONTEX) is envisaged. It was planned to enforce by 2025 the Military Planning and Conduct Capability. The Joint Support Coordination Cell is created to ensure coordination between military and civilian structures, while stronger stress on command and control capabilities is observed¹¹¹. In addition to further reinforcing military missions and making them rapid to respond to the fast-emerging crises, it is also planned to involve European Peace Facility as much as possible to provide the military equipment. All of the actions must be conducted with respect towards international humanitarian and human rights law¹¹². Gender equality, violence based on hatred towards women in conflict background are the topics also paid attention to within the Compass programme.

Under “Prepare together” it is implied that MS are to provide assistance in case of aggression under Art. 42 (7) and some other cases under a solidarity clause (Art.222 of TEU)¹¹³. MS commit to conduct advance planning, prepare early warning and scenarios. More personnel are to be trained to increase military capabilities. However, Valeriy Zaluzhny, Ambassador of Ukraine to United Kingdom, a former Commander-in-Chief of the Armed Forces of Ukraine, doubts the readiness of qualified human resources to serve in the military as well as workforce in defence industry, arguing that the EU lags behind the US and China for many years¹¹⁴. Interoperability is also considered to help increase the profile of the CFSP and the CSDP. We presume that the attempt of the EU to force generation for military missions and operations by increasing predictability and transparency of rotation of troops is ineffective, as it can not influence the population to actively participate in the mobilization. Yet the problem that has not been solved so far is the absence of EU’s autonomous army. The EU concentrates on dual-use transport infrastructure, cross-border movement, digitalization, material, arms deployment and NATO. We do not underestimate the importance of such, but the gap in the personnel would be quite noticeable and painful in case war breaks out on the territory of EU.

Concerning “Secure” section, the EU plans to introduce tools to refute hybrid attacks by Hybrid Toolbox, protect cybersecurity, confront propaganda and misinformation. It is

¹¹¹ Council of the European Union (2022). *A Strategic Compass for Security and Defence* (ST-7371/22) [online], p. 13. <https://data.consilium.europa.eu/doc/document/ST-7371-2022-INIT/en/pdf>.

¹¹² *Ibid.* p.16.

¹¹³ *Ibid.* p.17.

¹¹⁴ Defence 24. (2025, October 21). *A dire warning for Europe from Gen. Zaluzhny. How can we avoid war?* Defence24 [online]. <https://defence24.com/defence-policy/a-dire-warning-for-europe-from-gen-zaluzhny-how-can-we-avoid-war>

also emphasized to secure access to high seas, air and space. Climate change and connected disasters were not neglected in the Strategic Compass. This highlights a comprehensive and holistic approach of EU conduct of external policies. A quite interesting point mentioned in the Strategic Compass is evacuation of EU citizens beyond the borders if they are endangered with assistance of EEAS Crisis Response structures. In case it is conducted according to international law, with permission of population and for its sake, then it would guarantee safer space for them. By the end of 2022, the EU Threat Analysis was reviewed and by 2025 Single Intelligence Analysis Capacity and EU Satellite Centre must have been upgraded. In the context of hybrid threats, Hybrid Toolbox is a specific framework that includes preventive, collaborative, restrictive, recovery measures that reinforce mutual assistance. It also involves the existing instruments like EU Hybrid Response Teams, CSDP missions and operations and partners from other regions¹¹⁵.

Cyber Defence Policy is undergoing some changes with the adoption of Cyber Resilience Act and Joint Cyber Unit. Common Information Sharing Environment (CISE) and Maritime Surveillance (MARSUR) are also being upgdaded to ensure maritime safety. Another point to consider is the declaration of disarmament, non-proliferation and arms control by 2023. In the latest programme (Readiness 2030), we notice that EU tries to rearm itself with conventional capabilities. EU tries not to forget about climate change obligations, therefore it promised to appoint advisors to each CSDP mission to report the CO2 footprint¹¹⁶.

As for “Invest”, defense expenditures and investments in military capabilities are the top priority. Pursuant to Strategic Compass sheet, more funding is expected in research and technologies, which seems reasonable due to the changing nature of wars in the 21st century¹¹⁷. The main goal is to increase output and satisfy security demands. Also, the EU tries to fill gaps in strategic enablers especially amphibious capabilities, air connections and transportations. Union plans to modernize soldiers, Main Battle Tank System for hot spots, naval unmanned systems, observation tools for space, new combat systems in the air

¹¹⁵ Council of the European Union (2022). *A Strategic Compass for Security and Defence* (ST-7371/22) [online], p. 29. <https://data.consilium.europa.eu/doc/document/ST-7371-2022-INIT/en/pdf>.

¹¹⁶ *Ibid.*, p. 29.

¹¹⁷ *Ibid.* p.23.

and ensure cybersecurity¹¹⁸. Also VAT waiver was imposed to increase joint procurement. “Spend more and better” becomes the motto of “Invest” section¹¹⁹.

As tools for achieving the mentioned objectives in terms of investing, European Defence Fund (EDF), Permanent Structured Cooperation (PESCO), and EDA Defence Hub contribute meaningfully. AI, quantum and promotion of dual – use technologies get more attention in comparison with previous programmes¹²⁰.

Last but not least, to “Partner” implies deepening ties with NATO, UN, ASEAN, OSCE, AU. The EU does not limit itself to intergovernmental organisations, it promotes cooperation with US, UK, Canada, Norway, Japan, Western Balkans and Eastern Europe, Africa, Indo-Pacific, Latin America. For this purpose, EU Security and Defence Partnership Forum was created to ensure the smooth exchange and deeper communication between partners¹²¹.

However, the most recent plan is the “White Paper on European Defence – Readiness 2030”. This plan is considered to have more practical nature and sets the way how the objectives can be achieved. The goals mentioned in the new Readiness 2030 seem to be more robust and up-to-date in the context of Russia’s unprecedented war of aggression against Ukraine, as it was developed in March 2025. The EU took into account its mistakes and decided to define not only declarative targets. Readiness 2030 deals with closing critical capability gaps, including air and missile defence, artillery systems, ammunition and missiles, drones network, military movement/transportation, electronic, cyber and AI warfare, strategic enablers and eventually infrastructure security¹²². As we can notice, the new plan concentrates on 7 domains, while Strategic Compass determined 4 domains (act, secure, invest, partner). Readiness 2030 identifies more than 500 hotspot projects (tunnels, airports, bridges) and some multifunctional corridors that must be upgraded. It promotes scaling up the European defence industry and producing weapon systems¹²³. Concerning military mobility, the EU has to detect principle multi-modal routes for

¹¹⁸ Council of the European Union (2022). *A Strategic Compass for Security and Defence (ST-7371/22)* [online], p. 37. <https://data.consilium.europa.eu/doc/document/ST-7371-2022-INIT/en/pdf>.

¹¹⁹ *ibid.*, p.4.

¹²⁰ *ibid.*, p.34.

¹²¹ *ibid.*, p.39.

¹²² Council of the European Union; European Commission (2025). *White Paper for European Defence – Readiness 2030* [online], p. 6. https://commission.europa.eu/document/download/e6d5db69-e0ab-4bec-9dc0-3867b4373019_en?filename=White%20paper%20for%20European%20defence%20%E2%80%93%20Readiness%202030.pdf.

¹²³ *ibid.*, p.6.

delivery, future energy supply bottlenecks, cut bureaucracy. The Readiness 2030 promotes dual-use infrastructure establishment and space-based communications¹²⁴

But still MS will retain the responsibility for the deployment of troops, in such a case we return to the previous point, where we understand that this is a weak spot of EU, because absence of joint troops is causing not only in a certain way fragmentation, but also slows down the whole system. Despite the fact that Ukraine has a centralized army governed by the President, it took some time to mobilize, therefore having occasional (separate) mobilization of different countries means loss of time, which is critical in the beginning of conflicts. It was correctly mentioned in Niinistö and the Draghi Reports it is considered that “lack of collaboration has led to inefficiencies in the development of defence capabilities and imposed additional costs on all Member States”¹²⁵.

At the same time, EU wants to simplify rules (Defence Omnibus), as it comprehends a lot of red tape impedes the quick response to crises. Readiness 2030 seems interesting from a financial perspective, as it allows members to avoid some fiscal obligations through national escape clause (NEC) with a variety of reasons like economic downturn or safety threats or some extraordinary event outside of the country’s control. This way, the MS will be able to increase defence expenditures without causing economic harsh situation in the state¹²⁶. The defence expenditure will not be debited, but included in a memo to ensure transparency. According to estimations, it can help to surge the funding by 1,5% of GDP or around 650 billion Euros in 4 years¹²⁷.

Bertrand De Cordoue, in this light, calls for structural reforms with 3 bulletpoints: “pooled procurement, prioritisation of European-made weapons, and integration of Ukraine's military innovation”¹²⁸. Whereas Fenella McGerty estimates this programme as economically exhausting, but necessary¹²⁹. She questions the likelihood of cutting the dependence on the US not without a reason. Fenella also notices that although the alleviation of fiscal rules may help in the short-term period, but in the long run it can lead to debts. In other words, she tends to believe this plan is a “bold but fraught initiative”¹³⁰.

¹²⁴ Council of the European Union; European Commission (2025). *White Paper for European Defence – Readiness 2030* [online], p. 6. https://commission.europa.eu/document/download/e6d5db69-e0ab-4bec-9dc0-3867b4373019_en?filename=White%20paper%20for%20European%20defence%20%E2%80%93%20Readiness%202030.pdf.

¹²⁵ *ibid.*, p.8.

¹²⁶ CLAPP, Sebastian; HÖFLMAYER, Martin; LAZAROU, Elena and PARI, Marianna (2025). *ReArm Europe Plan / Readiness 2030*. EPRS Briefing, PE 769.566 [online], p. 5. [https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/769566/EPRS_BRI\(2025\)769566_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/769566/EPRS_BRI(2025)769566_EN.pdf).

¹²⁷ *ibid.*, p.5.

¹²⁸ *ibid.*, p.5.

¹²⁹ *ibid.*, p.6.

¹³⁰ *ibid.*, p. 5

Both of the programmes place NATO as a cornerstone and a reliable partner. It is believed that capability gaps can be eliminated by procurement of high-intensity warfare and cooperation through ad-hoc multinational framework; the EDA, the NATO Support and Procurement Agency or the Organisation for joint armaments cooperation (OCCAR)¹³¹. When it comes to legislative framework, Commission together with High Representative is to review EU-legislation on military mobility, impose stricter rules regarding the ownership of critical transport infrastructure, plan tools to remove obstacles for military deliveries. A Joint Communication on Military Mobility is being discussed and, hopefully, adopted in the nearest future¹³². Defence Omnibus, which is part of the programme, is supposed to improve cross certification of defence items, obtaining approval for defence industrial projects and ensuring access to materials on time. “Porcupine Strategy” or in other words facilitated military support for Ukraine promises Ukraine will remain the top priority and will not be neglected. It is defined as an “imperative”¹³³ to provide assistance to Ukraine, inter alia large-calibre artillery ammunition in amount of 2 million rounds per year, new air defence systems. It is planned to train and equip Ukrainian troops and help Ukraine by procurement of drones.

Thanks to Porcupine Strategy, the Ukrainian defence industry productivity is predicted to amount to EUR 35bn in 2025. For this purpose, it will be allowed to get the EU loan as an element of the G7-led Extraordinary Revenue Acceleration (ERA) initiative¹³⁴. In turn, EU can also benefit from Ukraine’s experience and knowledge sharing, because 4 years of war have triggered Ukrainian army to become stronger. A lot of innovative young companies in sphere of AI and drone systems can also give a push to EU’s development of new technologies.

What is more, it is important to underline that EU is not capable of producing defence systems or other equipment in the amount that is necessary. The industry remains too fragmented and major national players continue to satisfy the domestic markets.

The most important component of Readiness 2030 is development of industrial capacity to produce own arms, equipment, military systems. Indeed, the EU plans to further

¹³¹ Council of the European Union; European Commission (2025). *White Paper for European Defence – Readiness 2030* [online], p. 8. https://commission.europa.eu/document/download/e6d5db69-e0ab-4bec-9dc0-3867b4373019_en?filename=White%20paper%20for%20European%20defence%20%E2%80%93%20Readiness%202030.pdf.

¹³² *ibid.*, p. 9.

¹³³ *ibid.*, p.10.

¹³⁴ *ibid.*, p.11.

develop the European Military Sales Mechanism. European defence industry is awaited to enhance through common procurement act, home-grown alternatives for technologies¹³⁵.

While Readiness 2030 concentrates more on force enablement like stockpiles, industrial surge, armaments, the Strategic Compass is focused on command and control, early stabilization and rescue. Readiness 2030 facilitates the aggregate demand, growing arms, joint procurement. While Strategic Compass is more about strategy, Readiness 2030 is associated with execution. ReArm Europe-Readiness 2030 includes Security Action for Europe, enhancing national defence capital allocations, initiatives from European Investment Bank and growing private capital.

Having analyzed the Readiness 2030 programme with cold and critical mind, it must be said that the fulfillment of all the goals by 2030 sounds too idealistic and most likely impossible, but at least in comparison with Strategic Compass the targets are clearer and more definite, new goals are set.

So the emphasis falls on making EU militarily ready by 2030. In this context, Zaluzhny, an Ambassador of Ukraine to the United Kingdom and the former Commander-in-Chief of the Armed Forces of Ukraine, asks if there is enough political will and societal acceptance to step out of the comfort zone even when it involves economic downturn; access to raw materials, sufficient workforce and technologies. He believes pure financial reforms are not enough to achieve secure EU, but time and will are the decisive factors¹³⁶. Concerning will he also emphasizes that White Paper mentions some countries, not all, in such a case centralized defence is unlikely. He notes there are no compulsory restraints and liability for breaching the programme and it will be soft law that relies on incentives. It is estimated 60% of defence procurement is from the USA. Europe does not have manufacturing heft to defend itself for long. It is plausible to envisage EU will remain dependant on partners.

Nowadays, the populism in the USA and EU is showing that population is not interested in neoliberal values, economic globalization, but eager to dwell upon national

¹³⁵ Council of the European Union; European Commission (2025). *White Paper for European Defence – Readiness 2030* [online], p. 13. https://commission.europa.eu/document/download/e6d5db69-e0ab-4bec-9dc0-3867b4373019_en?filename=White%20paper%20for%20European%20defence%20%E2%80%93%20Readiness%202030.pdf.

¹³⁶ Defence 24, Unknown author. (2025, October 21). *A dire warning for Europe from Gen. Zaluzhny. How can we avoid war?* Defence24 [online]. <https://defence24.com/defence-policy/a-dire-warning-for-europe-from-gen-zaluzhny-how-can-we-avoid-war>.

interests protecting only own territory and neglecting higher common goals. Liberalism is under threat¹³⁷ (pursuant to Ikenburry) and therefore the EU has to be more independent. The Trump's administration and his equivocal initiatives to reform NATO mark the shift of political interests. This is a sign to update EU's CFSP and external actions to maintain order and security.

Zalyzhny believes that EU opens an opportunity for Ukraine to join the European arm market¹³⁸. In fact, army must respond to new technologies, it can be a good leverage to win, so Ukraine and EU will mutually assist each other. War is not only about field, but also propaganda. New tools to counter it must be used. The role of the private sector in wars doubled, because now it can finance the production and new models of armor. Personnel is important to win on field. So training and equipment is playing a key role. Russia learnt during large-scale war new war methods, uses advanced technologies, war demands new equipment. It is obvious to increase institutional defense readiness a wise conversation must be held with society.

It is also important to emphasize that the White Paper on European Defence 2030 does not belong to CFSP. Almost all of developments for defence industry are adopted under another legal procedure, not under CFSP framework. Most of financial policies are traditional policies led by European Commission outside CFSP. The CFSP with unanimity decision-making, no viable financial instruments (for example, the blockage of arms delivery for Ukraine under European Peace Facility) and other limitations seems ineffective. Therefore, a question about purpose and role of CFSP arises.

2.2. EU Institutions, actors in CFSP and the distribution of power

2.2.1. Role of European Commission and the High Representative of the Union for Foreign Affairs and Security Policy

The CFSP is a special policy of EU with its own peculiarities. Powers in CFSP are granted to the European Council, the Council of EU and some special organs/bodies set up specifically for CFSP like the HR/VP, the European External Action Service (EEAS), the Political and Security Committee (PSC), the European Defence Agency (EDA), the European Institute for Security Studies (EUISS), European Union Satellite Centre (SatCen),

¹³⁷ IKENBERRY, G. John (2018). The end of liberal international order? *International Affairs*, 94(1), p. 1.

¹³⁸ Defence 24, Unknown author. (2025, October 21). *A dire warning for Europe from Gen. Zaluzhny. How can we avoid war?* Defence24 [online]. <https://defence24.com/defence-policy/a-dire-warning-for-europe-from-gen-zaluzhny-how-can-we-avoid-war>

the European Security and Defence College (ESDC), Foreign Affairs Council (FAC) and other¹³⁹. Scholar, like Kononchuk, tend to classify three main divisions of institutions in CFSP based on their authority:

- 1) bodies that are able to discuss and adopt political decisions¹⁴⁰;
- 2) structures that implement decisions, perform long-term tasks and give some advice to the first category of bodies¹⁴¹;
- 3) expert, advisory and supervisory bodies¹⁴².

It is worth saying that the Commission has a limited authority in CFSP as a general rule. Therefore, it does not have the right of initiative or executive powers. The European Commission negotiates agreements and represents the EU in intergovernmental organisations. If we take a look from another perspective, the HR is one of the Vice-presidents of the Commission and, thus, is providing the comprehensive coordination of CFSP and other external actions. The Commission can support the HR's initiatives that are later submitted to the Council under Art.30 of TEU¹⁴³. In this regard, we should proceed with HR's role in the CFSP.

It is uncontested that the HR is an important body in the CFSP. The HR is appointed by the European Council by qualified majority upon approval of the President of the Commission for a 5-year term. What is more, the candidacy must be consented by the Parliament. In general, the HR was created pursuant to Art. 18 and 27 of TEU. The current HR is Kaja Kallas (from December 2024), the former ones – Joseph Borell, Federica Mogherini, Catherine Ashton, Javier Solana¹⁴⁴. The President of the Commission can dismiss the HR without consent of other commissioners. The Parliament can only pass a vote of no confidence for Commission as a result the HR will be dismissed as well. He/she can also be fired pursuant to the Article 247 TFEU by the Court of Justice of the EU upon

¹³⁹ European Union (n.d.). *Types of institutions, bodies and agencies* [online]. https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/types-institutions-and-bodies_en

¹⁴⁰ КОНОНЧУК, Ірина (2019). Інституційний механізм спільної зовнішньої політики Європейського Союзу. *Історико-правовий часопис*, 2(14), p.52.

¹⁴¹ *ibid.*

¹⁴² *ibid.*

¹⁴³ Auswärtiges Amt (n.d.). *Common Foreign and Security Policy (CFSP)* [online]. <https://www.auswaertiges-amt.de/en/aussenpolitik/europe/228280-228280>.

¹⁴⁴ Council of the European Union (n.d.). *High Representative for Foreign Affairs and Security Policy* [online]. <https://www.consilium.europa.eu/en/council-eu/high-representative-foreign-affairs-security-policy/>.

request of the Council or the Commission, if he/she does not fulfill the requirements or committed a serious misconduct¹⁴⁵.

The post was first created under Amsterdam Treaty and further developed in the Lisbon Treaty. Some scholar argue that the post of HR is triple-hatted, because it involves a large range of functions, bearing in mind that “hat” is referred to as a position¹⁴⁶.

The HR is the special body specifically created for conducting CFSP. To this end, the HR is empowered to:

- 1) conduct CFSP and CSDP;
- 2) make proposals;
- 3) chair the FAC;
- 4) make sure decisions of the Council of EU and the European Council are implemented;
- 5) represent EU in CFSP matters;
- 6) attend European Council meetings;
- 7) notify the Parliament on any updates (on interests and objectives in CFSP);
- 8) lead with the Council CSDP and CFSP missions and operations;
- 9) oversee 144 delegations;
- 10) lead EDA and EUISS;
- 11) ensure effectiveness and even development of all external actions¹⁴⁷.

2.2.2. Role of European Parliament

As a rule, Parliament is granted limited powers in domain of CFSP, and it seems not erroneous as adoption of legislative acts in CFSP is not allowed. CFSP is mostly associated with executive branch, however there is no distinct typical division on branches in EU law. Although Parliament is not typically involved in CFSP, it still has a place in the domain of CFSP. For this purpose, Parliament is entitled to be informed and consulted pursuant to

¹⁴⁵ КОНОНЧУК, Ірина (2019). Інституційний механізм спільної зовнішньої політики Європейського Союзу. *Історико-правовий часопис*, 2(14), p.53.

¹⁴⁶ ДАВИДЕНКО, Олена Іванівна (2013). Правовий статус Верховного представника ЄС із закордонних справ та безпекової політики. *Держава і право. Юридичні і політичні науки*, 60, p. 414.

¹⁴⁷ Council of the European Union (n.d.). *High Representative for Foreign Affairs and Security Policy* [online].<https://www.consilium.europa.eu/en/council-eu/high-representative-foreign-affairs-security-policy/>

Art.36 TEU by the HR on principle aspects and fundamental priorities of CFSP and shall inform it of how these policies are developing.

In addition, Parliament arranges debates on progress reports two times per year, as a result it prepares questions to the Council and the HR. Parliament grants a mandate for the HR to report on external affairs, CFSP and CSDP.¹⁴⁸

The HR's declaration of political accountability in 2010 which was attached to Parliament's resolution on creation of EEAS provided for Parliament's power to hold joint consultation meetings (JCMs): a group from Parliament can consult with the counterparts from the Council's PSC, the Commission and EEAS to share views on the current missions or operations in sphere of CFSP. In addition, the special committee in Parliament is entitled to confidential information in CFSP and CSDP. Apart from previously mentioned, heads of delegations, other senior officials, heads of missions exchange opinions with Committee on Foreign Affairs with EUSRs¹⁴⁹.

Parliament has budgetary powers, it must approve of the annual CFSP budget. The Parliament and the Council adopt legislation on financial means upon Commission's proposal. JCMs recur five times a year. Parliament oversees the functioning of EEAS, giving feedback and recommendations¹⁵⁰.

Also, Parliament is involved in CFSP through AFET and subcommittee on Human Rights (DROI) and Committee on Security and Defence (SEDE), Committee on International Trade (INTA), Committee on Development (DEVE). They shape CFSP, submit recommendations, share views, communicate with non-EU countries, representatives from intergovernmental organisations, council presidencies, officials from member states¹⁵¹.

Parliament has always promoted the role of HR, EEAS, EU delegations, EUSRs and prosperous construction of CFSP. What is more, it highlighted in 2024 annual report that Global Gateway Strategy 2021 is also a strategic scheme to integrate economic, political and foreign policies and increase EU presence in other corners of the world. Furthermore,

¹⁴⁸ MALOVEC, Michal (2025). *Foreign policy: aims, instruments and achievements* [online]. European Parliament. <https://www.europarl.europa.eu/factsheets/en/sheet/158/foreign-policy-aims-instruments-and-achievements>.

¹⁴⁹ *ibid.*

¹⁵⁰ *ibid.*

¹⁵¹ *ibid.*

Parliament supported an initiative to transform external actions into one single instrument and expressed regret when the goal was not reached because of lack of accountability¹⁵².

2.2.3. Role of the European Council and the Council of European Union

The European Council in CFSP is represented by its President, appointed for 2,5-year time, who is at his level and capacity ensuring the external representation of EU in CFSP matters¹⁵³. It is conducted without prejudice to HR's powers (Art. 15 (6) of TEU). Taking into account the European Council's structure and its members, it adopts the decisions by unanimity that determine the approach of EU on strategic interests and objectives pursuant to Art. 22 (1) TEU. Furthermore, the European Council determines the general guidelines in CFSP as well as in terms of defence implications under Art. 26 TEU¹⁵⁴.

The European Council prepares conclusions of a non-binding nature, for procedural purposes. For example, the Council further adopts decision by unanimity after the European Council has made a positive conclusion on specific topic.¹⁵⁵ In some urgent cases the President of the European Union can call for extraordinary meeting to discuss the situation and find solution.

The Council is one of the most important bodies in decision-making process in CFSP¹⁵⁶. Art.26 (2) of TEU stipulates that it must "frame the common foreign and security policy and take the decisions necessary for defining and implementing it on the basis of the general guidelines and strategic lines defined by the European Council"¹⁵⁷. Together with HR it "ensures the unity, consistency and effectiveness of action by the Union"¹⁵⁸.

In the Council, there has been set up a separate body - PSC that is making decisions concerning crisis management in CFSP. This is further regulated by Art.38 of TEU: PSC monitors the condition in crisis and gives opinions on Council's, HR's or its own initiative. It is also empowered under the Council's and HR's responsibility to steer the operations

¹⁵² MALOVEC, Michal (2025). *Foreign policy: aims, instruments and achievements* [online]. European Parliament. <https://www.europarl.europa.eu/factsheets/en/sheet/158/foreign-policy-aims-instruments-and-achievements>.

¹⁵³ LONARDO, Luigi (2022). *EU Common Foreign and Security Policy After Lisbon: Between Law and Geopolitics*. Cham: Springer, p. 58.

¹⁵⁴ Treaty on European Union. (Consolidated version 2012). *OJ C 326*, 2012.

¹⁵⁵ LONARDO, Luigi (2022). *EU Common Foreign and Security Policy After Lisbon: Between Law and Geopolitics*. Cham: Springer, p. 58.

¹⁵⁶ Wessel and Larik (2020), p. 296 cited according to LONARDO, Luigi (2022). *EU Common Foreign and Security Policy After Lisbon: Between Law and Geopolitics*. Cham: Springer, p. 58.

¹⁵⁷ Treaty on European Union. (Consolidated version 2012). *OJ C 326*, 2012.

¹⁵⁸ Treaty on European Union. (Consolidated version 2012). *OJ C 326*, 2012.

mentioned in Art. 43 of TEU (these are the following: “joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation”¹⁵⁹). The Council, in turn, must adopt decisions that clearly state the geographical and thematic scope, goals and implications. In fact, the HR with PSC coordinate military and civilian background of such operations¹⁶⁰.

Apart from PSC, a Committee of Permanent Representatives of the Government (COREPER) in the Council functions to coordinate experts, attain consensus/agreement on decisions later adopted by the Council, draft compromises and agreements, prepare configurations. COREPER is a preparatory body of EU, meaning all the questions on Council’s list are discussed first here. It is compound out of COREPER II or the MS’s Ambassadors to the EU and COREPER I which is created with their deputies. The functioning of COREPER is regulated by Art. 240 of TFEU. Foreign Affairs Committee (FAC) is configuration of Council with foreign ministers from EU MS.

What is more, the European Council acts unanimous upon Council’s recommendation (Art.22 of TEU).

MS are obliged under Art. 32 of TEU to consult with both the European Council and the Council on matters of CFSP before resorting to some measures or taking some responsibilities. Thus, it is attempt to guarantee the coherence of policy and common approach. It is important to mention MS, HR, with or without Commission’s support can refer any question or initiative to the Council’s review (Art.30 of TEU)¹⁶¹. If circumstances require so, HR can appoint a meeting in the Council within 48 hours to discuss the matters¹⁶². Last but not least, the Council is able to conclude treaties with international organisations, other countries regarding the CFSP sphere of interest.

2.2.4. Other bodies involved in CFSP

First and foremost, it is worth mentioning that **European External Action Service** (EEAS) is the diplomatic body/service in the framework of CFSP, operating since 2010

¹⁵⁹ Treaty on European Union. (Consolidated version 2012). *OJ C 326*, 2012.

¹⁶⁰ Treaty on European Union. (Consolidated version 2012). *OJ C 326*, 2012.

¹⁶¹ Treaty on European Union. (Consolidated version 2012). *OJ C 326*, 2012.

¹⁶² МУРАВЬОВ, В. І.; МИКІЄВИЧ, М. М.; БІЛАС, І. Г. та ін. (2015). *Європейське право: право Європейського союзу*. Підручник у трьох книгах. Книга третя: Право зовнішніх зносин Європейського союзу. Київ: Ін Юре, р. 57.

(Decision of Council 2010/427). Luigi Lonardo considers EEAS a “EU phenomenon”, as it was set up to enhance coherence within the system¹⁶³. Another reason for such a “title” is the complicated and hybrid composition of this body. It is made out of seconded staff from MS and different EU institutions. It also encompasses the members of General Secretariat of the Council.

Pursuant to Art. 27 of TEU, EEAS cooperates with embassies of different countries. Art. 2 of the Decision of Council 2010/427 defines that it is supposed to assist the HR, the President of the Commission and Commission, and the Parliament in questions pertaining external relations.

In the mission statement of EEAS, we can find out that the principles that guide the service are the diplomacy, engagement, protection, inclusivity and partnership¹⁶⁴. The EEAS is managed by Secretary-General, who works under HR supervision. She/He controls budgetary, administrative and other functions. Current Secretary-General of the EEAS is Bélen Martínez Carbonell¹⁶⁵. She works to increase prosperous comprehensive and effective cooperation with MS diplomatic missions, delegations, headquarters, third states. In order to achieve best development and concentration on topics, division on regions is set up: Asia-Pacific, Africa, Europe and Central Asia, the Greater Middle East and the Americas¹⁶⁶. There are also departments based on issues EEAS handling like human rights, democracy promotion, answer to crisis. EEAS is controlling all the **EU delegations**. They are key to represent EU and promote the values EU declares. Delegations may range in their thematical direction from political, economic to trade ones. EUSRs are working in specific regions and support cooperation, promote peace, stability and represent EU.

The European Defence Agency (EDA) is another important body that assists with defence capabilities and military coordination of EU MS. For this purpose, it encourages defence research and technologies, while giving incentive to industry improvement¹⁶⁷.

¹⁶³ LONARDO, Luigi (2022). *EU Common Foreign and Security Policy After Lisbon: Between Law and Geopolitics*. Cham: Springer, p. 59.

¹⁶⁴ European External Action Service (2024). *Mission Statement* [online], p. 1 . https://www.eeas.europa.eu/sites/default/files/documents/2024/EEAS%20Mission%20Statement_0.pdf.

¹⁶⁵ European External Action Service (n.d.). *About European External Action Service (EEAS)* [online]. https://www.eeas.europa.eu/eeas/about-european-external-action-service_en.

¹⁶⁶ *ibid.*

¹⁶⁷ European External Action Service (n.d.). *About European External Action Service (EEAS)* [online]. https://www.eeas.europa.eu/eeas/about-european-external-action-service_en.

The European Union Institute for Security Studies (EUISS) analyses problems in foreign policy, sets forums to design policy, participates in debates on external relations questions¹⁶⁸.

The European Union Satellite Centre (SatCen) collects information from satellites to distribute/ allocate geospatial intelligence. With its help, the decisionmakers and EU institutions can prevent escalation of crisis. Intelligence plays pivotal role in CFSP and CSDP missions and operations¹⁶⁹.

The European Security and Defence College trains soldiers for missions under CSDP and prepares highly qualified resources¹⁷⁰.

The Military Committee and Military Staff is established to coordinate rapid defence forces. Within it Operational Centre of EU is created to provide EU missions with necessary equipment and tools. In this context, we do not forget a special mechanism, Athena, that is handling financing of costs for military missions¹⁷¹.

Thus, we can conclude, CFSP involves numerous institutions and supporting bodies that put their utmost to attain the objectives and serve EU interests. However, we can notice the high complexity between division of powers not only within CFSP, but also CFSP and other EU Policy areas. In this context, we can remark that there is to a certain degree dualism as CFSP is mainly governed by TEU, while external actions of EU are regulated by TFEU, for example common commercial policy or development cooperation. As a result, the policies are granted another nature, while CFSP is intergovernmental, other external policies are supranational. It can lead to even more distinction/dychotomy in terms of what kind of acts are adopted (decisions, general guidelines, arrangements for implementation of decisions in CFSP or typical acts in EU for other) and how they are taken (by rule of unanimity or QMV which is considered as exclusion in CFSP). Furthermore, these are adopted by different bodies in such a case as legislative acts in CFSP are not allowed.

¹⁶⁸ Ibid.

¹⁶⁹ European Union (n.d.). *Types of institutions, bodies and agencies* [online]. https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/types-institutions-and-bodies_en.

¹⁷⁰ Ibid.

¹⁷¹ Council of the European Union (n.d.). *ATHENA mechanism* [online]. <https://www.consilium.europa.eu/en/policies/athena/>.

Maybe on paper, de jure, areas of EU policies seem to be with clearly defined scope, but in practice they often overlap with a fight to supersede one another. This is observed in external trade and security area regarding bans and sanctions.

As a result, absence of distinct boundaries may lead to unclear practice, even contradicting with each other. It can give flexibility, but the risk is not serving the purpose of CFSP and CSDP and principles of EU. Therefore, it undermines consistency and coherence, these are the values EU strives to achieve in CFSP and external relations.

3.1. Presentation of CSDP and its relationship to CFSP

3.1.1. CSDP, its actors and instruments

Common Security and Defense Policy (CSDP), being an integral part of CFSP, is a major achievement of EU as it marks a beginning of new Defense Dimension. It underlines that defense becomes an important component of foreign relations, not merely reduced to some diplomatic or political leverages. In this regard, CSDP is actively reinforcing the capacity of EU to stand for itself.

The Russian encroachment on Ukrainian territory highlights how important it is to be prepared and to fight back. It influenced EU's position, tools and objectives.

CSDP is a policy that regulates the external involvement of EU through the civilian, police and military missions to prevent potential conflicts, their escalation, develop effective system of crisis management to ensure peace around the globe. The experts are advising on the matters of rule conformity during such. In other words, it is mainly associated with the defence and military sector, but also can pertain legal issues. Through CSDP MS can jointly create a strategy to ensure security of its citizens¹⁷².

CSDP is connected to on-ground operations such as anti-piracy operations, military trainings, border assistance¹⁷³. In addition, promotion of legal reforms is largely encouraged. I believe that CSDP decently increases EU's capacity to respond to the arising challenges. Therefore, it helps EU to gather the power and to deploy collective action in case of conflicts or other crisis.

To this end, the EU developed a large number of supporting organs/agencies that help CSDP to fit for its purpose. The Political and Security Committee (PSC), the European Union Military Committee (EUMC), Committee for Civilian Aspect of Crisis Management (CIVCOM), the Politico-Military Group (PMG), the Security and Defence Directorate (SECDEFPOL.DMD), Peace, Partnerships and Crisis Management Directorate (PCM), the European Union Military Staff (EUMS), the Civilian Operations Headquarters (CIVOPSHQ), the Military Planning and Conduct Capability (MPCC) are the supporting bodies that share certain tasks and provide important input¹⁷⁴. In 2020, European Peace

¹⁷² European External Action Service (n.d.). *Common Security and Defence Policy (CSDP)* [online]. https://www.eeas.europa.eu/eeas/common-security-and-defence-policy_en.

¹⁷³ *ibid.*

¹⁷⁴ European External Action Service. (n.d.). *CSDP structure, instruments and agencies* [online]. https://www.eeas.europa.eu/eeas/csdp-structure-instruments-and-agencies_en.

Facility (EPF) was established to give financial support for joint actions, and now it arranges for financing Ukraine against Russia.

The CSDP was established in 1999, the first mission, Concordia, took place only in 2003 on the territory of the present North Macedonia. Since then more around 40 mission under CSDP guidance were involved, currently 21 civilian and military one are deployed¹⁷⁵.

The legal backbone of CSDP is found in Articles 42-46 of TEU. In fact, it is also mentioned in Protocol 1, 10, 11 to the Treaties and Declarations 13, 14 (on CFSP mainly). The HR acts as a steering wheel of CSDP, she/he chairs the FAC in configuration of Defence Ministers and is head of EEAS and EDA. When it comes to decision-making, the European Council and the Council use the rule of unanimity under Art.42 TEU. However, the QMV is applicable in terms of EDA and PESCO. In addition, in some cases pertaining defence technology research Commission and EDA perform tasks. Another interesting moment worth mentioning is that in CSDP missions or other actions EU partners may take part (Art. 21 TEU). Therefore, it highlights the bonds between countries and this way solidarity is touted in the best possible way.

Evolution of CSDP is mainly influenced by Global Strategy 2016, Strategic Compass 2022, and last but not least White Paper on European Defence-ReArm Europe 2030. In order to take into account new realities of geopolitics after 2022, the EU reviewed its guiding strategies. As a result, Denmark even refused its opt-out regarding defence policy, which it followed persistently since 1992 and joined CSDP by virtue of referendum in 2022¹⁷⁶. So all the MS are now actively taking part in CSDP.

In order to enhance defence industry and investment development, the EU set up EDF for research purposes; adopted Regulation (EU) 2023/2418 for joint defence procurement (EDIPRA); Regulation (EU) 2023/1525 for ammunition production and missiles. Apart from mentioned, the HR and the Commission presented the European Defence Industrial Strategy for competitiveness and development of the European Defence Technological and Industrial Base. The toolbox at disposal of CSDP can be described as quite successful so far. All the initiatives proposed were implemented and are already working for its purpose. A brief reminder about PESCO, permanent command for non-executive military missions,

¹⁷⁵ European External Action Service. (n.d.). *Missions and operations*. [online]. https://www.eeas.europa.eu/eeas/missions-and-operations_en.

¹⁷⁶ The Danish Parliament. (n.d.). *The Danish opt-outs from EU cooperation* [online]. <https://www.thedanishparliament.dk/en/eu-information-centre/the-danish-opt-outs-from-eu-cooperation>.

EDF, CSDP civilian Compact, off-budget EPF that showed great results since their establishment.

In spite of mentioned above, Collaborative Annual Review on Defence analyses the achievements and detects weaknesses.

Under EDF more than EUR 17 billion are allocated for the period of 2021-2027, therefore military sector can develop duly. In recent years thanks to EDF Kenya, Albania, Montenegro received financial assistance. Obviously, not to forget support towards Ukraine in amount of EUR 11.1 billion for the armed forces.

In addition, I would like to dwell upon EDIPRA briefly. It is a short-term procurement in defence sector worth EUR 500 million that is supposed to cover the expenses for critical capability gaps. Apart from that, EDIP or European Defence Industry Programme provides additional EUR 1.5 billion for 2025-2027. In this context, the EU plans to increase the procurement in defence by 40% up to 2030, and eventually succeed to raise up to 60% in 2035.

However, it is worth noting that the capabilities of EU are not only determined by financial instruments, they should also include strategical planning, trainings and development of manufacturing heft, because if the EU will only rely on procurements from outside of Europe, then it can end up in the bondage towards that source. In most cases, the USA is considered to be a supplier, that is why in the recent ReArm EU 2030 EU started to rethink their approach to independent production of weapons. Even some VAT exemptions are offered in order to support the business in producing military equipment.

The biggest impact on CSDP is made by ReArm Europe Plan/ Readiness 2030. It promotes development of air and missile defence, artillery systems, ammunition, drones, airlift capabilities and refuelling on the go, surveillance. This guideline is the most practical and the most robust so far in terms of CSDP and CFSP history.

I believe that the major shift and the most uncontested breakthrough is about to happen in the European defence before 2030, if the EU manages to fulfil its desired objectives and stick to the plan.

CSDP is embodied through civilian and military missions. So far the EU deployed its joint efforts within CSDP on three continents in over than 40 missions. In addition, now

around 4800 soldiers are working for the common good in such missions abroad¹⁷⁷. Such missions or operations are requested by the partner or UN Security Council Resolutions.

Concerning the most important civilian missions, I would like to draw the attention towards the following ones:

European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine) was a response to the Revolution of Dignity in 2013-2014, namely assistance to Ukrainian institutions to establish rule of law based system and reform the existing legal order, to support good governance and promote human rights. CSDP maintains offices in Kyiv, Lviv, Odesa and one Mobile Unit assisting daily to increase effectiveness of the civilian security sector. The goal is to make law enforcing institutions transparent to public scrutiny and control. The mission is done through three main lines of operation: strategic advice, operational practical support, cooperation and coordination¹⁷⁸.

EUPOL COPPS/ Palestinian territories: EU Police and Rule of Law Mission for the occupied Palestinian territory founded in 2006 as police mission, but amended in 2008 with law background. It helps Palestinian authorities construct agencies or state institutions. It tries to improve justice and security while increasing safety of nationals¹⁷⁹.

EULEX Kosovo: European Union Rule of Law Mission in Kosovo since 2008 promotes rule of law, sustainability, multi-ethnicity, human rights standards. It is considered to be the biggest civilian mission under CFSP auspices. An interesting point is that it has executive functions and acts as second tier security responder¹⁸⁰. It is also essential to emphasize EUMM Georgia, which is the monitoring mission since 2008 that patrols around the clock the South Ossetian and Abkhazian Administrative borders¹⁸¹. However, it is limited to making reports and observation. In addition, CSDP puts a lot of importance on military missions. EUMAM Ukraine, in other words European Assistance mission, is concentrating on training the soldiers on medical help, CBRN, maintenance and repair. Led by Michiel

¹⁷⁷ European External Action Service. (n.d.). *Missions and operations*. [online]. https://www.eeas.europa.eu/eeas/missions-and-operations_en

¹⁷⁸ European Union EUAM (n.d.) [online]. <https://www.euam-ukraine.eu/>.

¹⁷⁹ European External Action Service (2025). *Missions and Operations* [online]. https://www.eeas.europa.eu/eeas/missions-and-operations_en.

¹⁸⁰ *ibid.*

¹⁸¹ *ibid.*

van der Laan 70 thousand personnel was trained since 2022. The junior leadership was taught on how to prepare brigade, plan and fulfil on the ground firing operations.¹⁸²

Other military missions are EUMAM Mozambique, EUTM RCA, and EUTM Somalia. As we can notice, the number of military missions is much lower in comparison with civilian ones (12). This may suggest that the EU deploys military missions rarely and as the last resort. The EU tries to solve the hot topic issues through civilian assistance first and avoids resorting to force.

On the other hand, operations are mostly for naval issues like EUNAVFOR ASPIDES (in Red Sea, Indian Ocean, Gulf), EUNAVFOR MED IRINI (Libya, Mediterranean Sea), EUNAVFOR ATALANTA focused on fighting piracy and promoting World Food Programme in the Horn of Africa and the Western Indian Ocean. There was also a civilian and military mission - EU Security and Defence initiative in support of West African countries of the Gulf of Guinea. Last but not least, a Regional Advisory and Coordination Cell for the Sahel to give assistance to G5 Sahel structures¹⁸³.

3.1.2. Relationship between Common Foreign and Security Policy and Common Security and Defense Policy

To commence, the CFSP is a larger policy in the realm of the external actions of the EU. As it was mentioned before, the CSDP is a part of the CFSP pursuant to Art. 21 (1) of TEU. These policies are intertwined in their nature, but the CSDP seems subordinate, more dependant on the CFSP as it is launched by the last.

The CFSP is dealing with political, diplomatic, economic and strategic spheres. In order to improve understanding, I would compare CFSP with umbrella that covers CSDP, NPD, EUSRs, its instruments like diplomatic responses, demarches, political dialogue, sanctions. On the other hand, CSDP focuses on security, defence matters, civilian missions, military ones, capability development and defence cooperation and partnership. Being a component of CFSP, it must obey and follow its principles and objectives and, eventually, the principles of all external actions as they are the same. The legal framework for CFSP is comprised in Art. 21-46 TEU, CSDP, in turn, has its own section – Art.42-46 TEU. The CSDP has put forward to manage crisis, promote peacekeeping, develop military training

¹⁸² European External Action Service (2025). *EU Military Assistance Mission in support of Ukraine (EUMAM Ukraine)* [online], p. 1. <https://www.eeas.europa.eu/sites/default/files/documents/2025/2025-EUMAMUkraine.pdf>.

¹⁸³ European External Action Service (2025). *EU Missions and Operations* [online]. https://www.eeas.europa.eu/sites/default/files/2025/documents/EU-mission-and-operation_2025-05.pdf.

missions, maritime security operations, increase defence industrial partnership and capability development. While CFSP tries to promote democracy, rule of law, strengthen international security, impose sanctions, foster diplomatic resolution and maintain reliable relations, we consider the CSDP as the last resort, when the amicable and friendly method did not succeed, then CSDP is involved. Even though it is largely connected to military, the CSDP does not envisage EU's own army, but relies on the capabilities of its MS to take part in the missions.

In terms of instruments, the CFSP uses Council decisions, declarations of HR, diplomatic demarches, sanctions, CSDP also relies on Council decisions approving or establishing missions. In addition, CSDP requires mission mandates, rules of engagement, different development plans, PESCO commitments. On one hand, CFSP actors, as mentioned in previous chapters, are the European Council, the Council of the EU, HR, EEAS and eventually nothing can go further from the negotiation table without MS. On the other hand, CSDP has evolved and possesses own structures like PSC, EUMC, EUMS, Operational Headquarters (MPCC) and the actors of CFSP being major in this policy as well.

Both CFSP and CSDP require unanimity. Furthermore, Art. 31 (3) TEU does not allow QMV. The Passerelle clause cannot override the Art.31 (3) TEU, so QMV cannot be used regarding military or defence implications, therefore CSDP requires even more attention and consent from MS. However, there are exemptions in the CFSP that allow QMV, which were previously discussed in 1.2.3.2 Chapter of this Thesis. The CSDP has even less supranational oversight from the EU institutions than CFSP, the European Parliament has no control over military missions and obviously the Court cannot review the actions taken under CSDP.

A notable example of a growing tension between CFSP/CSDP and other traditional policies under TFEU is SAFE Regulation. It was adopted on a quite debatable legal basis, namely on Art. 122 TFEU, when indeed it belongs to CFSP sphere. TFEU grants an opportunity to adopt decisions fast without veto on qualified majority rule, whereas CFSP takes time and is risky as can be just blocked by one MS opposing the suggestion. What is more, the European Parliament is involved, so it leads to more democratic legitimacy. The MS intentionally bypass the CFSP procedure. This happens due to the fact that modern geopolitics and current challenges on global arena require robust and fast decision-making, legal enforceability and judicial control.

3.2. Effectiveness and dilemmas of CFSP and CSDP

3.1.1. The review of the CFSP and CSDP in light of war in Europe and some conflicts since its creation

To commence, there are different views on effectiveness of CFSP and CSDP, but the negative evaluation prevails, meaning that the policies did not only live up to expectations, but also failed to achieve the promised results set out by the EU and institutions/bodies themselves. Therefore, we should evaluate if the framework fits the purpose it was created for.

Now we would like to dwell upon the analysis closer and give some reasons for such a critical overview and observations. First things first, CFSP and CSDP have a fragmented nature, despite declaring the “common” one. Violeta Vasiliauskienė emphasizes fragmentation remains¹⁸⁴. We can conclude that the EU still has no united army and continues being reliant on its MS which are not eager to participate in such military missions when it comes to national interests and sacrifice. The number of personnel involved in the missions now seems critically low (above 4000), in such a case Europe will not be able to stand for itself. While Ukraine was mocked at and told that it would not be able to resist for more than 3 days, Europe has to rethink its own capabilities. Most of decisions are blocked, because CFSP requires unanimity voting. Worth mentioning is that Hungary blocked the European Peace Facility usage, MFA+ for Ukraine. Thus, MS themselves are fragmented with no united position towards certain obviously threatening topics. Acting as one front seems unreachable goal. The states just give separate opinion on topics of CFSP, so it seems impossible to consider the EU as reliable and decisive stakeholder. Some authors even raise question of fitting the purpose of EU institutions.¹⁸⁵

Baciu and Friede argue that UK’s Brexit caused the impossibility to use CFSP tools and decision-making institution, whereas France offered an idea to create true European army, but eventually faced failure. UK, in turn, is strengthening its military ties with Commonwealth countries. While the main burden falls on Germany, which is not capable

¹⁸⁴ VASILIAUSKIENĖ, Violeta (2024). The development of European Union Security Policy. *Public Security and Public Order*, (35), p. 343.

¹⁸⁵ BACIU, Cornelia-Adriana and FRIEDE, Alexandra M. (2020). *The EU’s CFSP/CSDP in 2030: Towards an alternative vision of power?* [online]. p. 2. https://www.researchgate.net/publication/342770917_The_EU's_CFSP_CSDP_in_2030_Towards_an_alternative_vision_of_power.

to lift the burden alone. Italy and Spain do not agree on German leadership, so try to lead national interests first¹⁸⁶.

We should bear in mind that EU's lack of effectiveness results in the instability on the whole continent. The situation when Russia is exercising its appetite on a larger part of Europe, namely Ukraine, occupied Abkhazia, South Ossetia, Crimea, the EU is slower than it is required to respond to crisis. There are constant attempts to influence Europe through propaganda, cyber attacks, provocations like entering the air space of countries. Russian military aircrafts entered Lithuania, Estonia, Poland in September 2025. There was one house damaged in Poland, but still no robust response was given. This way Russia checks how fast EU will respond and if it does at all. It can be considered as an airspace violation and under international law is prohibited. NATO raised aviation to shoot Russian aircraft, but was too slow. Russia conducts such encroachment to check the intel and time needed to strike back.

There were cyber attacks on Swedish IT systems. The EU is constantly under scrutiny of other rivals to see weak spots and shoot, so it should stay vigilant and respond to attacks from outside of its borders. The authors argue EU security is now led by private, public and third-party stakeholders (NGOs, IT business, activists), but not from the agencies expected¹⁸⁷. According to Baciú and Friede, the EU is watching its downfall as a passive audience. These insufficiencies will play a bad joke with the EU in the closest future and can become irreversible in 2030. While promoting idea of "united in diversity"¹⁸⁸, the EU forgets that internal issues can cause external weakness and failure to act as a security guarantor. The CFSP failed its objectives as the criteria set by EU are not fulfilled and seems to be far from reaching. Now there are new goals in Readiness 2030 European Defence, so we should wait for the results in the nearest future. Zaluzhny, the former Commander-in-Chief of the Armed Forces of Ukraine, doubts that the EU will succeed in reaching the projected goals by 2030¹⁸⁹.

¹⁸⁶ BACIU, Cornelia-Adriana and FRIEDE, Alexandra M. (2020). *The EU's CFSP/CSDP in 2030: Towards an alternative vision of power?* [online]. p. 2. https://www.researchgate.net/publication/342770917_The_EU's_CFSP_CSDP_in_2030_Towards_an_alternative_vision_of_power.

¹⁸⁷ BACIU, Cornelia-Adriana and FRIEDE, Alexandra M. (2020). *The EU's CFSP/CSDP in 2030: Towards an alternative vision of power?* [online]. p. 3. https://www.researchgate.net/publication/342770917_The_EU's_CFSP_CSDP_in_2030_Towards_an_alternative_vision_of_power.

¹⁸⁸ *ibid.*, p. 3.

¹⁸⁹ Defence 24, Unknown author. (2025, October 21). *A dire warning for Europe from Gen. Zaluzhny. How can we avoid war?* Defence24 [online]. <https://defence24.com/defence-policy/a-dire-warning-for-europe-from-gen-zaluzhny-how-can-we-avoid-war>.

Under CFSP/CSDP there is a lack in reforms and capabilities for EU to develop. MS are allocating a very little amount of budget to the purposes of CFSP. MS still have separate opinions towards Russia, China, although the EU claims to develop a common approach and present united position in other international organisations. France and Germany actually supported the changes, but the CFSP failed to involve Central European countries, solve social issues and foster safety. Authors claim that loud promises were not backed by profound actions. In the past, the budget for CFSP was cut because of COVID-19 and Brexit. On the other hand, now we can observe positive offset in budget. Readiness 2030 European Defence Plan seeks to extend European Investment Bank loans. SAFE Regulation is supposed to provide Euro 150 billion to accelerate defence investments.¹⁹⁰ States can also activate Stability and Growth Pact and the national clause. Private capital is mentioned in the Readiness 2030 European Defence Plan.

The 2020 and following years saw the rise of nationalism and populism in MS's parliaments. It also caused friction within the society and in EU's external relations, when MS give up on democratic principles and support some right-wing ideas. MS do not act with one voice in external policy.

Furthermore, establishment of DG-DEFIS by Commission entails sidelining HR Kaja Kallas. Encroachment of traditional policies in CFSP/CSDP spheres seems detrimental to the EU and the CFSP from the first sight because it generates legal uncertainty, institutional tension, but functionally beneficial. Unanimity is hindrance during war necessity. Hungary is not the first example of countries blocking important decisions. This way, the most important feature that should be in any external policy is fast response that is slowed down by such institutional and legal mechanism. The Commission tends to act fast and comprehensive. SAFE Regulation and DG-DEFIS center the Commission, they are based on TFEU, allow the QMV. Combining defence security, production, space strategies with trade, internal market, finance, state aid, large scale loans seem to belong to one toolbox of the Commission, so it is able to use the coherent approach as it is granted with larger competence. Under CFSP, no legislative acts are adopted, so it is not capable to achieve fast the results Commission can.

Furthermore, encroachment of traditional policies to CFSP implies involvement of the European Parliament and review by the Court of Justice. It increases accountability and

¹⁹⁰ CLAPP, Sebastian; HÖFLMAYER, Martin; LAZAROU, Elena; PARI, Marianna (2025). *ReArm Europe Plan / Readiness 2030*. EPRS Briefing PE 769.566 [online], p. 3 .
[https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/769566/EPRS_BRI\(2025\)769566_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/769566/EPRS_BRI(2025)769566_EN.pdf).

pro-humane approach thanks to review by the Court. Therefore, we assume encroachment of traditional policies may be beneficial in the short-term perspective of EU.

Furthermore, it is essential to mention that CFSP and CSDP are intergovernmental, but they still overlap with other traditional policies like Common Commercial Policy, development cooperation, economic/industrial policy and, last but not least, enlargement policy. These traditional policies are regulated by TFEU, while CFSP and CSDP by TEU, therefore such a phenomenon may create friction. The subject matter of traditional policies sometimes interferes into CFSP/CSDP realm, because only comprehensive approach and consideration of multiple factors covered by other policies may guarantee effectiveness. As a result, a question of what it actually implicates for CFSP/CSDP may arise. This leads to marginalization of CFSP and decrease in its importance as other encroach in its realm and can take away key areas of influence. Marginalisation, in turn, implies that there is a growing trend of EU external actions being conducted through TFEU and traditional policies, when such actions must have been conducted within CFSP sphere of competence.

However, there are also beneficial points for such marginalization. TFEU external policies are supranational, in other words, they have more oversight, therefore the Court of Justice has full jurisdiction to review the decisions under the traditional policies. The most important reason for marginalization of CFSP/CSDP is requirement for unanimity voting. In traditional policies, QMV is applicable, so resorting to TFEU based policies means circumventing a stricter rule. In addition, ordinary legislative procedure, when Commission and the Parliament are involved, is observed in traditional policies. The use of Regulations is faster and they are directly applicable. Furthermore, the role of Commission is leading. The negative backlash for such a phenomenon is institutional tension. When power shifts to the European Commission and the European Parliament, but the Council still insists on its dominance, because CFSP/CSDP is within its competence.

It would be fair to explain why such practice can be omnious. Using contested legal basis may undermine the whole legal framework. Furthermore, using TFEU instead of TEU is circumvention of usual legal provisions and it is negative for the law theory. The blurred scope causes regimes to overlap and provoke instability from inside, marginalisation of CFSP, its actors and mechanisms. However, we can conclude that encroachment of traditional policies into CFSP/CSDP matters outweighs the negative consequences in the short-term as it entails more advantages that CFSP cannot give, while posing risks in the long run. For this purpose, substantial reform of CFSP/CSDP must be implemented/conducted.

It is worth mentioning the latest developments in external relation of the EU, the Commission created the DG DEFIS and SAFE, this implies that Commission took the leading role in defence and rearmament drive and controls the financial part of the policies. Notably, SAFE is the backbone of Readiness 2030 Plan. The Directorate-General for Defence Industry and Space (DG DEFIS) is the Commission's department that guides the EU's Space Programme and develops efficient defence industry. It conducts this through evolution of defence industrial base and technological capabilities. The investments under DG-DEFIS are headed towards defence supply chains with a focus on small and medium enterprises. We can conclude that the EU makes its utmost to bypass stricter rules in order to fulfill ReArm Europe Plan by 2030, otherwise it could encounter obstacles on its way. In addition, the HR Kaja Kallas in such a view of the latest developments seems more sidelined, in such a case she just observes how a large part of her work is done by the Commission and its DG-DEFIS¹⁹¹.

In light of Russian war of aggression in Ukraine, the EU started to reform the policies. Now it understands more on what a threat Russia is and of what it is capable. The new strategy for 2030 considers defence more seriously and develops industry and procurement. Denmark joined EDA. Malta is planning to join PESCO, Finland and Sweden are in NATO. EPC allowed some countries to join to stabilise borders¹⁹². We see how states start mobilising and finally taking actions. War is trigger for changes. Now the expenditures are much bigger in comparison with CARD 2020, 2022 reports¹⁹³. While criticizing we do not underestimate that PESCO has improved procurements, robust actions, cyber, biological, nuclear, military and other capabilities.

Dr. Amelia Hadfield claims Union to be "a rather herbivorous power" in the face of 'hard' predators".¹⁹⁴ She argues the CSDP is out-of-area tool that is not capable of autonomously defending the EU.

CFSP and CSDP were first deployed in post-conflicts in Western Balkans, when in 1990-2004 in Bosnia and Herzegovina first missions helped after NATO operations. This

¹⁹¹European Commission (n.d.). *Defence Industry and Space* [online]. https://commission.europa.eu/about/departments-and-executive-agencies/defence-industry-and-space_en.

¹⁹² RUTIGLIANO, Stefania (2023). Ukraine conflict's impact on European defence and Permanent Structured Cooperation (PESCO). *European Papers*, 8(2), p. 768.

¹⁹³ *ibid.* p. 772.

¹⁹⁴ Hadfield, Amelia (2023). *FSP0013 — Written evidence to the Foreign Affairs Committee: "The EU in a changing global environment"* [online]. UK Parliament, House of Commons Committees. <https://committees.parliament.uk/writtenevidence/59484/html/>.

showed that CFSP is dependant on NATO military, while struggling to share the same position concerning Kosovo and Serbia, political consensus was as now not found.

War in Iraq and US-involvement was a test for European political response, but the EU failed to prepare a united position within CFSP about this matter. On one hand, UK, Poland and Italy supported US troops, on the other hand, France, Germany and Belgium opposed such.

UN-authorized intervention to Libya in 2011 is revelation of EU's lack of operational capacity and absence of unity. France and UK headed the military mission, Germany, leading for a long time a pacifistic approach and rejecting build-up of military, abstained from such mission. Subsequent instability in Sahel, Libya showed that EU has to work more on CFSP and CSDP. NATO was the main security guarantor. The EU deployed civilian mission, therefore high-intensity operations were considered weak spot. Now the situation improved, but still we cannot talk about perfect conduct.

Operation Sophia was directed against smuggling in maritime, it emphasized CFSP limited sphere, because it was necessary to refer to traditional policies¹⁹⁵. The EU used border control, Frontex instead of CFSP mechanisms.

Russian war of aggression in Ukraine is the biggest challenge for CFSP/CSDP. It is a litmus test that shows how vulnerable Europe can be and if it is ready to fight back. Indeed, it served as a trigger to reform the CFSP/CSDP and adopt new strategies. We would estimate that the biggest changes in CFSP happened due to war. Unfortunately, they should have been initiated beforehand, because now there are major doubts on the EU being able to implement changes on time, before 2030, as it is planned in the Readiness Plan. Under ReArm Europe, there are decent allocations to Ukraine. For the first time the EPF was used to provide support¹⁹⁶. War in Ukraine triggered increasing fiscal resources as response to threat on the borders¹⁹⁷. In the past, the EU was legally constrained to spend money on defence and military pursuant to Art. 41 (2) TEU. At the same time, rule under Article 310 TFEU and unanimity cause slowing down the process. There was even one case in the Federal Constitutional Court of Germany concerning approval of NGEU (recovery package

¹⁹⁵ Operation Sophia: Fighting human trafficking in the Mediterranean. (n.d.). *EUR-Lex* [online]. <https://eur-lex.europa.eu/EN/legal-content/summary/operation-sophia-fighting-human-trafficking-in-the-mediterranean.html>.

¹⁹⁶ FABBRINI, Federico (2023). *Funding the War in Ukraine: The European Peace Facility, the Macro-Financial Assistance Instrument, and the Slow Rise of an EU Fiscal Capacity* [online], p. 10. https://fondazionecsf.it/images/2023/Research-Paper/CSF-RP_FundingWarUkraine_FFabbrini_Feb2023.pdf.

¹⁹⁷ *ibid.* p. 11.

for EU MS after COVID-19), which has the same legal reason for backing down, but the Court stated neither EU Treaties, nor the German law prohibit the empowerment of the Commission to issue 750 bn Euro debt, rejecting that it may constitute *ultra vires*¹⁹⁸. Therefore, we can conclude that the EU has done a great job in terms of CFSP as the new Readiness 2030 Plan especially concentrates on financial instruments, contributions from EIB, defence funding. For your reference, US allocated in total during 2022-2025 66,9 billion USD¹⁹⁹, while EU provided 167 billion EUR to Ukraine, Germany and UK leading the ranking²⁰⁰. Decision (CFSP) 2023/927 finances 155-mm-calibre artillery rounds²⁰¹ and this is confirmation that the EU has developed its military funding instruments. Nevertheless, funding in CFSP is hindered by structural weakness²⁰². EU's response to war is not merely boiled down to financial instruments, it also imposed sanctions, excluded economic and energy cooperation with Russia, banned media-broadcasting and condemned its unprecedented aggression.

3.1.2. The potential ways to improve the CFSP and CSDP

CFSP/CSDP must be reviewed as there are still a lot of issues that hinder its functioning. For this purpose, we have some suggestions. As it was mentioned before, unanimity is a major problem, so introducing QMV has potential. However, it should be backed by dialogue with MS, who can oppose and opt for nationalism. It also means making amendments to the Treaties, as the existing provisions do not fit the expectations and current challenges. It is important to keep MS' trust to the EU institutions. We believe it would be beneficial for the EU to communitarize the CFSP. As it seems obvious the regulation by TEU can drastically slow down and complicate the adoption of decisions and actions. As practice shows, traditional policies are used in order to circumvent the long and difficult procedure for CFSP. This can also benefit because it

¹⁹⁸ Federal Constitutional Court of Germany. Judgment of 6 December 2022 in cases No. 2 BvR 547/21 and 2 BvR 798/21.

¹⁹⁹ U.S. Department of State, Bureau of Political-Military Affairs (2025, January 9). *U.S. Security Cooperation with Ukraine* [online]. <https://www.state.gov/bureau-of-political-military-affairs/releases/2025/01/u-s-security-cooperation-with-ukraine>.

²⁰⁰ Statista (n.d.). *European aid to Ukraine by country* [Graph]. Statista [online]. https://www.statista.com/statistics/1499394/european-aid-to-ukraine-by-country/?srsltid=AfmBOoqLgQHMTTCOFdhcBkDCtMFL7Or_RdSGBWLxVE90S_sLRxFr8m-H.

²⁰¹ European Peace Facility. (n.d.). *Support for the Ukrainian Armed Forces*. EUR-Lex. Retrieved [date you accessed it], from <https://eur-lex.europa.eu/EN/legal-content/summary/european-peace-facility-support-for-the-ukrainian-armed-forces.html>.

²⁰² FABBRINI, Federico (2023). *Funding the War in Ukraine: The European Peace Facility, the Macro-Financial Assistance Instrument and the Slow Rise of an EU Fiscal Capacity* [online]. CSF Research Paper. <https://www.cogitatiopress.com/politicsandgovernance/article/view/7174>.

means more involvement of Commission and as a result faster reaction and procedures. Communitarization leads to full jurisdiction of the Court of Justice.

EEAS can be merged with DEFIS. Such an idea can imply proper defence planning, no overlaps in EEAS and CFSP services. They are connected and merging can ensure common direction of tools and strategy. DG DEFIS controls financial instruments, common procurement, dual-use technologies and other. Merger promises that CFSP will take decisions that will not be pure declaration and can be backed by real capabilities. It also leads to faster adoption of actions and legal acts. It is important to emphasize that there is no possibility to adopt legal acts in CFSP, but DEFIS belongs to traditional policies, therefore legal acts can be adopted. A single structure can benefit by avoiding duplication and clarifying legal capabilities. Also merging Commissioner for Defense with the HR/VP seems reasonable. This will require less money, ensure progressive development of strategies, wider responsibilities.

As Baciú and Friede argue that new powers and upcoming threats in volatile world require comprehensive understanding of the internal–external security nexus²⁰³. Spillovers extend fast to other countries. The probability of internal wars is low, but the neighbourhood remains unstable and the conflicts can interfere in the EU. Russia has appetite to subjugate nations and take control of territories and it is important to emphasize that Russia will not stop on Ukraine. The aggressor-country already presented some plans on how it will use nuclear missiles on European capitals. So it is a reminder for the EU to develop its military capabilities.

We also believe that ensuring support from private sector is essential. The ReArm Europe mentions about private capital. Private organisations, individuals should also have a chance to influence the geopolitical situation. In this case, more support and trust will be given to institutions.

An interesting idea was mentioned by authors: “security is ultimately about how you enact inclusion and exclusion”.²⁰⁴ This implies that the EU should choose the rules and actors within boundaries to include in its sphere.

²⁰³ BACIU, Cornelia-Adriana and FRIEDE, Alexandra M. (2020). The EU’s CFSP/CSDP in 2030: Towards an alternative vision of power? *Global Studies Quarterly*, 1(2), 1–13 [online]. <https://doi.org/10.1177/2336825X20935245>.

²⁰⁴ *Ibid.*, p.12.

The EU should avoid ambivalence in relations with NATO and the USA. Its reliance on the US may be dangerous because of current unstable leadership that adopts impulsive not well-thought decisions. The new trends show the US puts national interests first and desires to stop provision of support to Ukraine. The EU should increase industry and armaments on its own. In this context, the EU should not be dependant on assistance from the US that is waivering support during harsh war times.

Another question regarding NATO remaining the major security guarantor, military alliance supporting multilateralism, arises. The EU must decide if it still relies on NATO, while thinking of giving up on cooperation with the USA. It is still fragile to refuse NATO help, so the partnership benefits and gives opportunities.

We would like to suggest creating own EU army under auspices of CSDP. It would be compulsory and be complected with a certain amount of citizens of each MS who would serve either in their motherland or would involve joint trainings for better coordination when it comes to direct combat actions. In case of war, well-trained soldiers-professionals together with citizens who served in EU army would be quickly mobilized to resist the attack. The fractured defense landscape hinders the security of EU²⁰⁵. Thinking just in terms of funding is not enough, when Russia knocks on “the doors of the EU”. There must be a military strategy in the long run that would secure EU’s future. Joint army implies reducing wasteful duplication, logistic issues, equipment inefficiencies, time for mobilization. Creating army also means developing common aircraft capabilities, equipment, armaments.

However, introduction of EU joint army is problematic as it can encounter sovereignty constraints when some countries prefer to abstain from military involvement and require parliament approval for deployment of force. It seems inevitable that a lot of challenges can arise. What is more, it entails the necessity to amend the Treaties and the Constitutions of some MS. Countries are pretty concerned about EU taking over some sovereignty by default when joining the EU, introduction of joint army can bring about serious political and society disagreement. Center for Strategic and International Studies believes that one of the leverages to attract more approval and more personnel to EU army is high salaries for serving there.²⁰⁶ The EU should decide who will head the army, the President of Commission is not authorized to be commander in chief²⁰⁷. HR/VP can lead mission, but then the requirements for such position should be changed as it must be a person who not

²⁰⁵ BERGMANN, Max (2024). *Why It's Time to Reconsider a European Army*. CSIS [online]. <https://www.csis.org/analysis/why-its-time-reconsider-european-army>.

²⁰⁶ *Ibid.*

²⁰⁷ *Ibid.*

only has political and educational background, but also military administrative/ leadership experience. Another suggestion is just creating EU army based on national armies, which will be mobilized all together when war breaks out.²⁰⁸ It requires calling a national referendum, but seems to be more beneficial than financing own national small armies.

Concerning Ireland, Malta and Austria, which define themselves as neutral countries, some opt-outs can be granted, taken into account their contribution would amount to 5%²⁰⁹, the EU would not insist on changing their policies.

²⁰⁸ *Ibid.*

²⁰⁹ BERGMANN, Max (2024). *Why It's Time to Reconsider a European Army*. CSIS [online]. <https://www.csis.org/analysis/why-its-time-reconsider-european-army>.

CONCLUSIONS

To begin with, CFSP is an intergovernmental policy of the EU, which is supposed to develop strategy for EU representation in external relations, promote human rights and principles of international law, prevent conflicts, manage crisis, deploy military or civilian missions and ensure peace in the region.

The main question of this Master's Thesis is the following: does the existing framework fit for the purpose? To answer this question numerous factors have to be considered. It seems complicated to give an accurate and precise response. We believe that the scientific overview must remain corresponding to the reality, so neither appraising, nor criticizing without substantial reasons is not beneficial and does not serve the purpose of scientific research.

1. We think that CFSP's framework does not fit for the purpose it was created.

The legal framework based on which it is functioning seems to be imperfect. Unfortunately, there are a lot of flaws that slow down the process, when the quick and robust response to crisis is needed. It is especially essential in the current realities. Unanimity, absence of trivial legal acts, lack of legal review are hindrances on the way of successful crisis management. We noticed that the EU tries to circumvent legal procedure for CFSP by using traditional policies and TFEU. This is conducted to adopt important acts or decisions, actions that can be blocked by pro-Russian member states or countries that find that particular action unbeneficial for them. Still most of the members believe that making some sacrifice for the future of EU and defeating the enemy is not their job, because it is somewhere beyond the EU borders, but one day Russia can evade EU. It will not stop, so the EU must prepare in case war breaks out.

2. The research has demonstrated that CFSP needs substantial reform.

The new strategies (Readiness 2030 on European Defence) still do not take into account serious flaws in the internal structure and legal framework. However, now CFSP is closer to its goal, because the Readiness 2030 devotes a lot of attention to the defence, procurements, manufacturing heft, industry capabilities, new technologies, robotics, drones, financial instruments and some escape clauses for member states.

3. The deep analysis confirms that unanimity is detrimental.

One Member state can block any decision. Therefore, we suggest adopting QMV in CFSP. Furthermore, communitarizing CFSP would benefit and create opportunities to manage crisis well. Commission will be participating in CFSP and act fast. The Court of Justice will have jurisdiction and review some cases.

4. For the purpose of CFSP and CSDP, we suggest creating united own EU army.

Joint army implies reducing wasteful duplication, logistic issues, equipment inefficiencies, time for mobilization. Creating army also means developing common aircraft capabilities, equipment, armaments. Introduction of EU joint army is problematic as it can encounter sovereignty constraints when some countries prefer to abstain from military involvement and require parliament approval for deployment of force. However, the advantages behind the EU army are more important.

In general, it is also important to mention that Article 24 TEU establishes CFSP. Articles 23-41 deal with CFSP, whilst Art. 42-47 regulate the CSDP which is an essential part of CFSP. From a policy perspective, it can be concluded that the CFSP has a hybrid nature, possessing the ability to use both the soft power and the hard power. Decisions are made by MS, not EU institutions like the European Commission or European Parliament. CFSP is conducted by adoption of decisions on actions to be undertaken, positions and arrangements for implementation; general guidelines.

5. What pertains aims and objectives, CFSP and CSDP aim to preserve peace, reinforce security, prevent conflicts, endorse cross border cooperation and strengthen democracy, rule of law and other fundamental human rights and freedoms.

They are based on general EU values and principles like democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law, which is mentioned in Art.21 TEU, so it is EU-wide set of values.

6. Concerning institutions in CFSP, it has been established that powers in CFSP are granted to the European Council, the Council of EU and some special organs/bodies set up specifically for CFSP like the HR/VP, EEAS, PSC, EDA and EUMC, PMG, EUMS, MPCC.

7. It has been determined that CFSP is a larger policy than CSDP in the realm of the external actions of the EU.

CSDP is a part of CFSP pursuant to Art. 21 (1) TEU. These policies are intertwined in their nature, but CSDP seems subordinate, more dependant on CFSP as it is launched by the last. The CFSP is dealing with political, diplomatic, economic and strategic spheres. In order to improve understanding, CFSP is like umbrella that covers CSDP, NPD, EUSRs. On the other hand, CSDP focuses on security, defence matters, civilian missions, military ones, capability development and defence cooperation and partnership. Being a component of CFSP, it must obey and follow its principles and objectives and, eventually, the principles of all external actions as they are the same. In terms of instruments, CFSP uses Council decisions, declarations of HR, diplomatic demarches, sanctions, CSDP also relies on Council decisions approving or establishing missions.

8. The obtained research results review that CFSP has changed since it was created and the evolution shows that major improvements have been suggested especially connected to development of new programmes and strategies.

They were influenced by Russian war of aggression in Ukraine. The EU realized it is not capable to defend itself and is dependant on the USA and NATO. Therefore, the ReArm Europe Plan considers defence and industry capabilities. Readiness 2030 deals with closing critical capability gaps, including air and missile defence, artillery systems, ammunition and missiles, drones network, military movement/transportation, electronic, cyber and AI warfare, strategic enablers and eventually infrastructure security. It promotes scaling up the European defence industry and producing weapon systems. Concerning military mobility, the EU has to detect principle multi-modal routes for delivery, future energy supply bottlenecks, cut bureaucracy. The Readines 2030 promotes dual-use infrastructure establishment and space-based communications. While Readiness 2030 concentrates more on force enablement like stockpiles, industrial surge, armaments, the Strategic Compass is focused on command and control, early stabilization and rescue. Readiness 2030 facilitates the aggregate demand, growing arms, joint procurement. While Strategic Compass is more about strategy, Readiness 2030 is associated with execution. ReArm Europe-Readiness 2030 includes Security Action for Europe, enhancing national defence capital allocations, initiatives from European Investment Bank and growing private capital. New tools to

counter war must be used. Personnel is important to win on field. So training and equipment is playing a key role.

9. It must be stressed that increasing marginalisation of CFSP by ex Community policies, emergence of DG DEFIS, SAFE and other is observed. This calls into question the role and functions of HR, EEAS and the traditional CFSP instrument. Furthermore, CFSP also does not have strong financial instruments, European Peace Facility part of support to Ukraine is being blocked by one Member State. The limitations lie in institutional and legal framework. However, there are some achievements during history that showed EU has potential.
10. The Readiness 2030 can increase CFSP effectiveness and it can fit for the purpose it was created. The future depends on readiness of member states to act.

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SUMMARY

Legal Foundations of EU Common Foreign and Security Policy: Is the Existing Framework Fit for Purpose?

Iryna Bobyk

This work analyses Common Foreign and Security Policy of the European Union, established to maintain peace, prevent conflicts, create common stance in external affairs, fortify international security, foster an international system on effective multilateral cooperation. The main question of this Master's Thesis is the following: does the existing framework fit for the purpose? We think that CFSP's framework does not fit for the purpose it was created. The research has demonstrated that CFSP needs substantial reform.

The legal framework based on which it is functioning seems to be imperfect. Unfortunately, there are a lot of flaws that slow down the process, when the quick and robust response to crisis is needed. It is especially essential in the current realities. Unanimity, absence of trivial legal acts, lack of legal review are hindrance on the way of successful crisis management. We noticed that the EU tries to circumvent legal procedure for CFSP by using traditional policies and TFEU. This is conducted to adopt important acts or decisions, actions that can be blocked by pro-Russian member states or countries that find that particular action unbeneficial for them. Still most of the members believe that making some sacrifice for the future of EU and defeating the enemy is not their job, because it is somewhere beyond the EU borders, but one day Russia can evade EU. It will not stop, so the EU must prepare in case war breaks out.

The deep analysis confirms that unanimity is detrimental and retarding. One Member state can block any decision. Therefore, we suggest adopting QMV in CFSP. Furthermore, communitarizing CFSP would benefit and create opportunities to manage crisis well. Commission will be participating in CFSP and act fast. The Court of Justice will have jurisdiction and review some cases.

For the purpose of CFSP and CSDP, we suggest creating united own EU army. Having analysed the scope of CFSP, we may conclude that it covers all areas of foreign policy, security and common defence policy. CFSP is associated with protection of EU territory, but its geographical scope is directed beyond EU borders

SUMMARY

ES Bendros Užsienio ir Saugumo Politikos Teisiniai Pagrindai: Ar Egzistuojanti Sąranga Atitinka šios Politikos Srities Paskirtį?

Iryna Bobyk

Šiame darbe analizuojama Europos Sąjungos bendra užsienio ir saugumo politika, sukurta siekiant išlaikyti taiką, užkirsti kelią konfliktams, suformuoti bendrą poziciją užsienio reikalų srityje, stiprinti tarptautinį saugumą, skatinti veiksmingą daugiašalį bendradarbiavimą tarptautinėje sistemoje. Pagrindinis šio magistro darbo klausimas yra toks: ar esama sistema atitinka savo tikslą? Manome, kad BSGP sistema neatitinka tikslo, kuriam buvo sukurta. Tyrimas parodė, kad BSGP reikia esminių reformų.

Teisinė sistema, kuria ji remiasi, atrodo esanti netobula. Deja, yra daug trūkumų, kurie lėtina procesą, kai reikia greitai ir ryžtingai reaguoti į krizę. Tai ypač svarbu dabartinėmis aplinkybėmis. Vienbalsiškumas, nereikšmingų teisės aktų nebuvimas, teisinės peržiūros trūkumas yra kliūtys sėkmingam krizių valdymui. Pastebėjome, kad ES bando apeiti BVPB teisinę procedūrą, naudodama tradicines politikos priemones ir SESV. Tai daroma siekiant priimti svarbius aktus ar sprendimus, veiksmus, kuriuos gali blokuoti prorusiškos valstybės narės ar šalys, manančios, kad konkretus veiksmas joms nenaudingas. Vis dėlto dauguma narių mano, kad aukotis dėl ES ateities ir nugalėti priešą nėra jų darbas, nes tai vyksta kažkur už ES sienų, bet vieną dieną Rusija gali išvengti ES. Ji nesustos, todėl ES turi pasirengti karo atveju.

Išsami analizė patvirtina, kad vienbalsiškumas yra žalingas ir stabdo pažangą. Viena valstybė narė gali blokuoti bet kokį sprendimą. Todėl siūlome priimti KMV BVP. Be to, BVP bendruomeninimas būtų naudingas ir sudarytų galimybes gerai valdyti krizes. Komisija dalyvaus BVP ir veiks greitai. Teisingumo Teismas turės jurisdikciją ir peržiūrės kai kurias bylas.

BVP ir BSGP tikslais siūlome sukurti vieningą ES kariuomenę. Išanalizavę BVP taikymo sritį, galime daryti išvadą, kad ji apima visas užsienio politikos, saugumo ir bendros gynybos politikos sritis. BVP yra susijusi su ES teritorijos apsauga, tačiau jos geografinė taikymo sritis apima ir teritorijas už ES sienų.