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Editors

Dr. Hanna Shelest
Dr. Mykola Kapitonenko

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Contacts:

website: <http://ukraine-analytica.org/>
e-mail: Ukraine_analytica@ukr.net
Facebook: <https://www.facebook.com/ukraineanalytica>
Twitter: https://twitter.com/UA_Analytica

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SECURITY THROUGH OTHER MEANS? PROSPECTS FOR EUROPEAN- UKRAINIAN DEFENCE INTEGRATION

Justin Tomczyk
Stanford University

The 2009 Treaty of Lisbon introduced a concept known as the “Common Security and Defence Policy” to the legal structures of the European Union. While not initially envisioned as a military pact, the Treaty of Lisbon saw the expansion of the EU’s policy purview and laid the groundwork for the European Union to act as a unified power in foreign affairs. While the prospects for Ukrainian membership of NATO remain unclear, Kyiv’s EU candidacy means that certain elements of collective security may be secured through future membership of the European Union. This article will examine areas of security and defence integration between the European Union and Ukraine, and compare the concepts of collective security in NATO and the EU.

Ukrainian membership of NATO remains a contentious topic of debate among western policy makers. While Ukraine has been an active participant in programmes like NATO’s Partnership for Peace¹ and has conducted military exercises with members of the alliance², certain policymakers have expressed hesitancy towards extending the alliance’s collective security concept to Ukraine. This is often grounded in arguments related to either Russia’s possible response to further expansion of the alliance, or doubts about Ukraine’s ability to ensure its own territorial integrity. At the time of writing, the United States has expressed a desire to extend partnership status to

Ukraine and bypass certain requirements for membership³, but has not openly endorsed full membership.

While this question will remain a focal point for outside observers, it should be noted that concerns over Russian response to the possibility of Ukrainian Euro-Atlantic alignment are redundant in the wake of the invasion of Ukraine. Regardless of whether Ukraine is to join NATO in the future, Russia’s invasion and the actions of the Russian occupying forces have ensured that the Ukrainian government and society will view Russia as an adversarial state, and plan their security policies accordingly.

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- 1 Mission of Ukraine to the North Atlantic Treaty Organization, “NATO – Ukraine cooperation within «Partnership for Peace»”, December, 2019, <https://nato.mfa.gov.ua/en/ukraine-and-nato/nato-ukraine-cooperation-within-partnership-peace>
 - 2 Telewizja Polska, “Polish, Lithuanian, Ukrainian troops take part in joint drills”, July, 2021, <https://tvppworld.com/54886480/polish-lithuanian-ukrainian-troops-take-part-in-joint-drills>
 - 3 A. Ward, “Biden ‘open’ to plan that eases Ukraine’s path to NATO membership”, “Politico”, 15.06.2023, <https://www.politico.com/news/2023/06/15/biden-ukraine-nato-membership-00102331>

There is no reason to believe that the bilateral relationship between Kyiv and Moscow, seen prior to the 2014 annexation of Crimea, will be possible without massive changes to Russia's political system and leadership. There is also no reason to believe that the Ukrainian leadership would consider neutrality or non-aligned status to be a viable guiding principle of the country's defence policy, considering that Ukrainian neutrality did not prevent the 2014 invasion, and that the Russian government has openly expressed that it does not consider the post-Maidan Ukraine to have a legitimate government. It is safe to assume that Ukraine will remain on a path of active Euro-Atlantic integration for the foreseeable future.

While NATO membership remains uncertain, Ukraine has already set in motion its membership process with another key component of the Euro-Atlantic system: The European Union. As of June 17, 2022, Ukraine is formally recognised as a candidate for future EU membership. While the preceding Association Agreement was key in establishing the first connections between Ukraine and the political and market systems of the European Union, actual candidacy means that full membership is expected in the future. Although the timelines for full EU membership accession can stretch for decades into the future, this designation opens the possibility of Ukrainian integration and alignment with virtually all aspects of the European Union – including defence policy. This article will examine the benefits of closer cooperation and integration with the European Union for Ukrainian national security.

Common Security and Foreign Policy

The European Union's ability to operate as a single, cohesive actor in foreign affairs stems from the concept of the Common Foreign and Security Policy (CFSP). The CFSP was included in the 1992 Treaty of Maastricht⁴, as one of the three pillars of political cooperation and integration within the newly-created European Union. This concept was later expanded in the 1997 Treaty of Amsterdam in the section "Provisions on a Common Foreign and Security Policy"⁵. It is worth noting that in describing its vision for a united European security policy, the Treaty of Amsterdam references the Western European Union (WEU). The WEU was a defence and political alliance formed in the aftermath of the Second World War that had fallen into redundancy with the creation of NATO. Although the security provisions of the WEU were never fully actualised during the Cold War, its legacy provided a precedent for the incorporation of defence policies within the European Union. The Treaty of Amsterdam also included the creation of an official CFSP leadership position known as the "High Representative for EU Foreign Policy". This title is granted to a civil servant from an EU member state with a five-year mandate, following a majority approval vote in the European Council. Additionally, the High Representative for foreign policy also holds the title of Vice President of the European Commission, and works within the Commission separately from the Council and other "legislative" elements of the European Union.

4 European Communities, "Treaty on European Union", July, 1992, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A11992M%2FTXT>

5 European Communities, "Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts", October 1997, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=OJ%3AC%3A1997%3A340%3ATOC>

The creation of the Common Foreign and Security Policy in the Treaty of Amsterdam was partially a reflection of the challenges Europe faced towards the end of the 20th century. By 1997, the ongoing wars in the ex-Yugoslavia had brought about the return of armed conflict and interethnic violence on the European continent. As early as 1994⁶, observers had noted that Europe's response to the rapidly escalating crisis in the Balkans was simultaneously impotent in its effectiveness, and inconsistent between individual member states. Beyond the immediate failure of Europe to respond to the ongoing humanitarian disaster, macroscopic changes in the world at the end of the century would have required a new scope of policy action.



While NATO membership remains uncertain, Ukraine has already set in motion its membership process with another key component of the Euro-Atlantic system: The European Union

The collapse of the Soviet Union, the growing importance of emerging economies like China, and the increase in non-state actors and asymmetric warfare, meant that Europe's previous security paradigm needed to be retooled for the coming century. The 1998 Franco-British St. Malo Declaration clearly articulated the necessity for this new European security framework. Beyond the broad articles of cooperation

detailed in the Treaty of Amsterdam, the St. Malo Declaration explicitly describes the European Union as needing "...the capacity for autonomous action, backed up by credible military forces, the means to decide to use them, and a readiness to do so, in order to respond to international crises"⁷. This is further elaborated as "...the Union must be given appropriate structures and a capacity for analysis of situations, sources of intelligence, and a capability for relevant strategic planning, without unnecessary duplication, taking account of the existing assets of the WEA and the evolution of its relations with the EU".

Two major developments followed the Treaty of Amsterdam that played a major role in shaping the current state of the CFSP. One was the establishment of the European Defence Agency (EDA) in 2004. As the first strictly security-related body within the EU, the EDA serves as a coordinating body for the development of EU-wide security policies, and is the main source of military R&D programmes within the European Union. Additionally, the 2009 Treaty of Lisbon saw the further elaboration of the CFSP through the creation of the European External Action Service (EEAS). The EEAS functions similarly to an EU-wide Ministry of Foreign Affairs with its own civil service corps, and is directly responsible for administering EU diplomatic missions abroad and coordinating civilian and military missions abroad. At the time of writing, the EEAS has completed 19 missions abroad and currently oversees 12 civilian and nine military operations⁸.

6 N.Gnesotto, "Lessons of Yugoslavia", Western European Union Institute for Security Studies, March, 1994, <https://www.iss.europa.eu/sites/default/files/EUISSFiles/cp014e.pdf>

7 United Kingdom Ministry of Defence, "Memorandum submitted by the Ministry of Defence on the St Malo Agreement", Select Committee on Defence Minutes of Evidence, April, 1999, <https://publications.parliament.uk/pa/cm199899/cmselect/cmdfence/39/39w17.htm>


8 European External Action Service, "Missions and Operations", January, 2023, https://www.eeas.europa.eu/eeas/missions-and-operations_en#11927

Models of Collective Security

The 2009 Treaty of Lisbon also included the first legal basis for collective security within the political structures of the European Union. Article 42.7 of the Treaty of Lisbon⁹, titled “Mutual defence clause”, articulates a concept of collective security, tailored to the political and economic processes of the EU. In the event that a member of the EU is subject to “armed aggression” on its territory, all other EU members have an “obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter”. Like NATO’s Article V, it should be noted that Article 42.7 of the Treaty of Lisbon obliges a response to an armed attack against one of the members of the treaty, but leaves the exact course of action open to interpretation (or as it is more specifically phrased in Article V, members must take “such action as [the attacked party] deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area”). It is also worth noting that Article 42.7 does not include an explicit mutual defence clause wherein members consider an attack on one EU country to be an attack on all. It is possible that this omission is an accommodation to formally neutral countries like Austria and Ireland, which actively abstain from participation in military alliances¹⁰.

This section is elaborated by what is known as the “Solidarity Clause”. While Article 42.7 resembles a traditional guarantee of collective security, the Solidarity Clause is aimed at non-state actors and threats that exist beyond the scope of interstate conflict.

The Solidarity Clause is specifically aimed at dealing with “terrorist attacks and man-made disasters” located on the territory of an EU member. This clause requires EU members to “mobilise all the instruments at its disposal, including the military resources made available by the Member States” and lists prevention of a terrorist attack as one of its areas of coverage, alongside responding to a terror attack. The Solidarity Clause specifies that a threat against an EU member can extend beyond the physical, territorial elements of the state and include “democratic institutions and the civilian population”. The emphasis on “institutions” as being a protected subject may be targeted at a combination of abstract political threats to institutional stability, as well as threats from cyber-attacks and other non-physical forms of state aggression.

 ***Like NATO’s Article V, it should be noted that Article 42.7 of the Treaty of Lisbon obliges a response to an armed attack against one of the members of the treaty, but leaves the exact course of action open to interpretation***

The only instance of Article 42.7 being used by an EU member was France’s evocation following the November 13 2015 terror attack in Paris¹¹. France’s evocation of the Solidarity Clause was met with universal approval by the European Council, and provided the justification for increased security along the European Union’s external

9 European Council, “Consolidated Version of the Treaty on the Functioning of the European Union”, May, 2012, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>

10 C.S. Cramer, “Ambiguous alliance: Neutrality, opt-outs, and European defence”, European Council on Foreign Relations, June, 2021, <https://ecfr.eu/publication/ambiguous-alliance-neutrality-opt-outs-and-european-defence>

11 European Parliament Think Tank, “Activation of Article 42(7) TEU France’s request for assistance and Member States’ responses”, European Council Briefing, [https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2016\)581408](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2016)581408)

borders and increased intelligence sharing between EU members. Since then, there have been references to EU members like Cyprus and Greece¹² hypothetically¹³ deploying Article 42.7, but no EU state has evoked the article or its associated solidarity clause. In comparison, NATO's Article 4 (calling for a joint meeting to discuss a potential crisis facing the alliance) has been evoked seven times, all of which occurred within the past 20 years¹⁴.

It should be noted that Poland and the Baltic States chose to evoke NATO's Article 4 rather than the EU's Article 42.7, when faced with the renewed prospect of Russian aggression following the annexation of Crimea – even when Russian “hybrid warfare” seemed more related to Article 42.7's emphasis on institutions as the targets of aggression. Considering that Article 42.7 is believed to have been created in response to the 2004 Madrid subway bombing,¹⁵ and that the only time the clause has been evoked was in response to the 2015 Paris terror attack, it is possible that the article is intended as a sort of intra-union defence clause, and is aimed at responding to threats entirely within the territory of the EU.

With the aforementioned differences between Article 42.7 and NATO's Article 5 in mind, we should consider the implications that either model of collective defence would have on Ukrainian national security. NATO's Article 5 would undoubtedly provide the most tangible form of deterrence against aggression from an outside party. The repeated evocation of Article 4 by

the alliance's eastern members, and the pursuit of NATO membership by formerly neutral states Finland and Sweden, suggest that even when fully integrated with the security structures of the EU, NATO is still the preferred means of deterrence against outside aggression. However, this deterrence would do little in response to an ongoing invasion, with active battles across the entirety of the line of contact. If Ukraine were to bypass the pre-membership requirements included within a Membership Action Plan, sidestep earlier concerns over territorial integrity vocalised by members of the alliance, and achieve unanimous membership approval from all members of the alliance (something which even long-time NATO partner Sweden has struggled with), then the final result would be an immediate challenge to uphold NATO's mutual defence clause. This is not to suggest that future Ukrainian NATO membership is not in the best interests of Brussels and Kyiv, but rather that this concept of deterrence would be more effective against a future threat rather than an ongoing invasion.

Additionally, Ukraine has already secured political and material support from NATO members without participation in the alliance, and has been conducting training exercises and war-games alongside NATO members since 2015. Expanding this assistance to include direct intervention would present a major political liability to certain members of the alliance, and may jeopardise the entirety of NATO's support for Ukraine. Instead of focusing entirely on future NATO membership as being Ukraine's

12 B. Fox, “*The Brief – What to do about Article 42 as Greek-Turkish tensions escalate*”, Euractiv, <https://www.euractiv.com/section/politics/news/the-brief-what-to-do-about-article-42-as-greek-turkish-tensions-escalate>

13 Dr. Adamides, “*Article 42(7) as an insufficient tool of last resort for Eastern Mediterranean stability*”, Clingendael Report, January, 2022, <https://www.clingendael.org/pub/2022/uncharted-and-uncomfortable/annex-3>

14 North Atlantic Treaty Organization, “*The consultation process and Article 4*”, https://www.nato.int/cps/en/natohq/topics_49187.htm

15 I. Traynor, “*France invokes EU's article 42.7, but what does it mean?*”, The Guardian, November, 2015, <https://www.theguardian.com/world/2015/nov/17/france-invokes-eu-article-427-what-does-it-mean>


path to Euro-Atlantic defence integration, we should consider the benefits that would come from further alignment with the EU's Common Foreign and Security Policy.

Ukraine and the CFSP

As a formal candidate for EU membership, Ukraine is expected to harmonise its judicial, legal, and political systems with those of the European Union. This includes approximation to EU policies in areas related to the Common Foreign and Security Policy – or at the very least, ensuring a degree of congruence that would not prevent future membership. This is explicitly outlined in Chapter 31 of the EU membership acquis,¹⁶ which all candidates are expected to comply with prior to membership. While EU candidacy means that at some point Kyiv will need to be integrated into the security structures of the EU, it also provides the opportunity for short-term elaboration of pre-existing defence cooperation with the EU. Even without full membership of the European Union, it is possible for Ukraine to integrate itself with nearly all aspects of the EU's CFSP, and ensure active support from Brussels.

An example of defence integration prior to full membership can be seen in Croatia's EU Candidacy. Similar to modern Ukraine, Croatia was grappling with simultaneously being part of the "new democracies" of Eastern Europe, as well as contending with the recent experiences of the Yugoslav wars. Although pursuit of NATO membership took priority over defence integration into the EU, close approximation to elements of Euro-Atlantic defence policies allowed Croatia to attend EU meetings on matters

of foreign and security policy, prior to receiving full membership¹⁷. Like Croatia, Ukraine's candidacy status may open up the possibility of similar participation in EU meetings related to defence and foreign policy, and may enable greater coordination with EU-wide defence policies.



While EU candidacy means that at some point Kyiv will need to be integrated into the security structures of the EU, it also provides the opportunity for short-term elaboration of pre-existing defence cooperation with the EU

The CFSP may not be designed to fully deter interstate conflict, but it may be useful in meeting certain security challenges currently seen in Ukraine. Participation in the CFSP may be used as a pretext for the sharing of military intelligence between individual EU members and Ukraine, as well as the continued outside training of Ukrainian military personnel or the formation of joint military units. Considering that any active conflict will lead to the proliferation of small arms and explosives among criminal and terrorist networks, the Solidarity Clause may be an effective pretext for Ukrainian collaboration with EU members on countering arms trafficking and other illicit activities.

We should also consider that the counterterrorism provisions of the Solidarity Clause could be used in response to current or future "hybrid warfare" strategies

¹⁶ European Commission, "Chapters of the acquis", European Neighbourhood Policy and Enlargement Negotiations (DG NEAR), https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/conditions-membership/chapters-acquis_en


¹⁷ L. Vukadinović, "The Croatian View on the EU Common Security and Defence Policy (CSDP)", Austrian Institute for European and Security Policy, January, 2014, <https://www.aies.at/download/2014/AIES-Fokus-2014-01.pdf>

deployed by the Russian government. This would be particularly relevant if the plausible-deniability strategies used in the annexation of Crimea or early stages of the war in Donbas are used following a “Refreezing” of the conflict, as these challenges may technically be approached as a domestic security threat within Ukraine rather than in terms of an interstate conflict. This would also likely include coordinating responses to cyber-attacks against Ukrainian telecommunications or critical infrastructure. Even without the same obligation of action seen in NATO’s Article 5, the EU’s Article 42.7 could still be evoked in response to an attack on Ukrainian territory.

The long-term participation of Ukrainian forces in the EU’s Battlegroup system would be one of the most tangible examples of continued defence integration between Kyiv and Brussels. Ukraine has already participated in the 2011, 2014, 2018, and 2020 Balkan Battlegroup, as well as the 2016 Visegrad Battlegroup. Continued training missions and exercises within the EU battlegroup system provide opportunities for the integration of Ukrainian forces into the wider command and intelligence structures of the European Union, as well as person-to-person contacts and the normalisation of participation in EU-led missions. The Battlegroup model’s emphasis on reaction and rapid deployment means that Europe and Ukraine would be prepared for any future flashpoints or crises within the continent.

At the time of writing, material support for Ukraine is provided by members of the European Union through three different avenues. The first is the direct bilateral

supply of equipment, ammunition, or arms by individual states, as seen in the case of Poland¹⁸ prior to the 2022 invasion. The second avenue is the participation in multilateral formats like the “Rammstein Format”, where multistep plans for the supply of equipment or the training of crews and specialists are organised by several states. The third is the direct supply of military equipment to Ukraine by the institutions of the European Union as part of the CFSP. This material support is primarily handled by the aforementioned European Defence Agency, as well as parts of the European Commission.



it is crucial that forthcoming defence acquisitions are carried out with the supranational structures of the EU as the primary contact point. Coordination from an overseeing group like the European Commission could be the key to avoiding acute shortages

Short-term defence integration with the European Union could mean using points of contact within the European Commission¹⁹, the EEAS, and the EDA as channels for the procurement of contemporary European weapons systems. While individual EU members were quick to provide Ukraine with munitions, artillery, and infantry carriers during the opening months of the war, the increasing amount and complexity of western military aid may present a future challenge to military supply chains. With this in mind, it is crucial that forthcoming

18 Ukrinform, “Poland handing over defence aid to Ukraine – Duda’s Office”, January, 2022, <https://www.ukrinform.net/rubric-defense/3394872-poland-handing-over-defense-aid-to-ukraine-dudas-office.ht>

19 European Commission Service for Foreign Policy Instruments, “European Peace Facility”, https://fpi.ec.europa.eu/what-we-do/european-peace-facility_en

defence acquisitions are carried out with the supranational structures of the EU as the primary contact point. Coordination from an overseeing group like the European Commission could be the key to avoiding acute shortages²⁰ of munitions or specific weapons systems within individual EU members, as Europe gradually rebuilds its military manufacturing capabilities. Additionally, this framework of cooperation would also minimise the political burden placed on an individual EU member, advocating for the delivery of major defence elements such as airframes or air defence systems.

A secondary benefit of this process would be the standardisation of military hardware. While the EU does not maintain strict military standardisation like NATO, most European militaries utilise STANAG compatible rifles chambered to 5.56×45mm NATO rounds. The topic of EU military standardisation has already been explored by a subcommittee of the European Parliament²¹. While early material support for Ukraine involved the delivery of older Soviet-produced²² vehicles by former members of the Warsaw Pact, we should remember that these deliveries were based on what equipment would require the minimal training for Ukrainian forces. However, the lack of momentum by the Russian forces, and the stabilisation of the line of contact, has given EU members the

capacity to train Ukrainian military personal on the usage of western-produced hardware like the Leopard-2 tank²³ and IRIS-T air defence system²⁴. The usage of western-produced equipment has extended to the level of individual infantry materiel through the proliferation of AR-clone rifles like the Zbroyar UAR-15²⁵. Establishing points of contact with the supranational structures of the European Union can lay the groundwork for future Ukrainian integration into European defence manufacturing.

Close defence cooperation with the EU and the CFSP may also shape the conditions in post-war Ukraine. The civilian missions of the CFSP provide a window into the European Union's possible role during the reconstruction processes. Demining operations, decontamination of heavy metals from soil, and the restoration of utilities will undoubtedly be required following the end of the conflict. The European Union has already applied the CFSP towards aid missions in former conflict zones, as well as peacekeeping and stability operations in areas like the Western Balkans. The EU Monitoring Mission to Ukraine established in 2014 provides a precedent for post-war monitoring and peacekeeping, and could be used as a launching point for enforcement of a ceasefire, armistice, or other type of cessation of hostilities.

20 H. Foy, "Explosives shortage threatens EU drive to arm Ukraine", *Foreign Policy*, March, 2023, <https://www.ft.com/content/aee0e1a1-c464-4af9-a1c8-73fbc46ed17>

21 European Parliament Policy Department for External Relations, "European armaments standardisation", <https://www.iss.europa.eu/sites/default/files/EUISSFiles/Defence%20study.pdf>

22 R. Brobst, "Non-NATO Sources of Soviet and Russian Arms for Ukraine", *Foundation for Defense of Democracies*, July, 2022, <https://www.fdd.org/analysis/2022/07/06/non-nato-sources-of-soviet-and-russian-arms-for-ukraine>

23 E Braw "Ukraine's Leopard Tank Crews are Trained and Ready to Fight", April, 2023, <https://foreignpolicy.com/2023/04/10/ukraine-russia-war-leopards-tank-warfare/>

24 S. Siebold "Under the radar, Germany trains Ukrainians on advanced air defence weapon", March, 2023, <https://www.reuters.com/world/europe/under-radar-germany-trains-ukrainians-advanced-air-defence-weapon-2023-03-03>

25 E. Sof, "Uar-15: A new Ukrainian clone of the AR-15 rifle intended to replace Kalashnikov", *Spec Ops Magazine*, June, 2022, <https://special-ops.org/uar-15-zbroyar-z-15-rifle/>

Conclusion

While future Ukrainian NATO membership will remain a topic of debate throughout Europe and the United States, it is crucial that we remember that NATO membership is only one component of Ukraine's integration into the wider Euro-Atlantic system. Elements of the European Union's Common Foreign and Security Policy may provide some tangible benefit to Kyiv both in the near future and in the long run. Through close cooperation with its EU partners and with coordination from the European Commission, EDA, and EEAS, Ukraine's military may continue to procure munitions, arms, and equipment needed, while gradually incorporating elements of

modernisation seen among the militaries of the EU and NATO. Although not a military alliance, the concepts of collective security included in the European Union following the Treaty of Lisbon may provide an adequate guarantee of security against future terror and asymmetric threats seen in Ukraine.

Justin Tomczyk is a graduate of Stanford University's Master's program in Russian, East European, and Eurasian Studies. His research is focused on Eurasian integration and Russian foreign policy in the South Caucasus. From 2017-2019 he lived in Yerevan, Armenia and he is currently based in Lower Manhattan.

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