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# The European Union's outside challenges: defence and enlargement

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## 1. The new European Parliament and the outside “challenges”

As became abundantly clear in the months leading up to the June 6 to 9 elections, the new European Parliament will be faced with a number of complex issues, not just internally but also outside the Union's borders.

The many internal challenges range from the difficulties in maintaining the system's cohesion while upholding such fundamental values as the rule of law (though recent political shifts in Poland would seem to have defused one of the most worrisome situations), to continuing along the path inaugurated by Next Generation EU towards greater integration in protecting social rights (which may call for more attention to coordinating resource management), as well the need to ensure the safety and security of the EU's citizens, with everything that implies. Externally, the Union is challenged by the daunting problems beleaguering today's world: the climate crisis, energy poverty, and the need to deal with the growing waves of migration—and the many factors behind them—towards the Old Continent.

In the globalized setting in which Parliament will be working over the next five years, most of the challenges calling for attention from outside the EU's borders will also have repercussions inside them. Together, with their impact thus compounded, challenges from inside and out will require the newly installed institutions to come to grips with the existential question of what identity the future Union is to take and what type of organization it is preparing to become.

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In this connection and in the light of the current international scene, the issues posed by two crucial themes for the European Union’s future—defence policy and enlargement—are particularly delicate, given their effects on the EU’s confines.

As we will see, these two themes have long been leitmotifs in the European integration process. Today, however, they have both gained impetus because of an event to some extent external to the Union. Russia’s war of aggression against Ukraine has, after years of alternating torpor and sporadic reawakenings, focused attention on the need for a fully-fledged European defence system, and to finally put an end to nearly twenty years of stasis—broken only by Croatia’s entry in 2013—by bringing additional member states into the EU fold.

Nor should we forget that the need for reflection on both of these aspects and their vital importance was emphasized by no less an authority than the prime mover behind this series of volumes on European parliamentary elections, who noted of defense policy that *“Solo la “guerra” gli europei ancora non fanno insieme, come dimostrano tutte le più recenti vicende belliche, a partire da quella libica o quella siriana, fino alla risposta al terrorismo islamico; ma, in realtà, non riescono nemmeno a farla separati”* and, of enlargement, that *“sono entrati nell’Unione prima i paesi sottoposti ad un regime totalitario di destra...; poi, paesi di tradizionale atteggiamento neutrale...; infine, dopo la caduta del Muro di Berlino, prima otto, poi altri tre, paesi sottoposti al controllo del comunismo russo, fratelli europei che erano stati egoisticamente abbandonati dopo la seconda guerra, permettendo che si alzasse un muro insensato, privo di radici storiche, tra Europa occidentale e Europa centro-orientale”*<sup>1</sup>.

In the following discussion of these two “challenges” awaiting the future European Parliament, we will attempt to determine which of their many complex aspects will have the most direct influence in charting the Union’s future course.

## **2. The security “challenge” and the prospects for a European defence system**

One of the major challenges that the new Parliament will be called upon to address outside its borders—and which will also be echoed inside them<sup>2</sup>—is that of safeguarding security, always one of the most important responsibilities of a state.

Particularly difficult to define and subject to varying interpretations at different times and places<sup>3</sup>, security is now under greater stress as a result of the radical changes affecting the planet in multiple areas. Take, for example, the problems—some new, some less so—arising in connection with globalization,

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<sup>1</sup> B. CARAVITA, *Quanta Europa c’è in Europa*, Giappichelli, Torino, 2020, pp. 91 e 88 f.

<sup>2</sup> F. BELLOU, *Augmenting European Security and Defence: A Multiple Challenge for the EU*, in G. VOSKOPOULOS (ed.), *European Union Security and Defence. Policies, Operations and Transatlantic Challenges*, Springer, Cham, 2021, p. 180.

<sup>3</sup> T.F. GIUPPONI, *La sicurezza e le sue “dimensioni” costituzionali*, in *Forum di Quaderni costituzionali*, 2008.



international terrorism, climate change, advances in technology and computer science, the growing uncertainty in social, economic and political relations<sup>4</sup>, immigration, and violent crime<sup>5</sup>.

These problems are even harder to tackle in a multilevel system like the European Union, where the fact that it is objectively impossible to cordon off the impact of global phenomena at national boundaries is compounded, first, by the Union's lack of the wherewithal to deal autonomously with such issues, and second, by the reluctance of the Member States—shielded in matters of national security by Article 4.2 TEU—to relinquish portions of their power in spheres that are so delicate and so closely tied to sovereignty.

Indeed, if we look at the current versions of the Treaties, we see that they contemplate a role of the Union in safeguarding security both externally<sup>6</sup> and internally (where the texts speak of providing citizens with an area of freedom, security and justice)<sup>7</sup>, while also preserve that core of competences and discretion of which the Member States cannot—or do not wish to be—deprived<sup>8</sup>.

While there are many other aspects of external security, we are concerned here with the protection of the Union's territory, rather than with the question—however pressing it has now become—of controlling the arrival of non-Europeans at our sea and land borders, or of establishing supranational armed forces ready to defend the European “homeland” from foreign attack.

### 3. European integration in the defence sector

#### 3.1. The first steps

Ever since the early postwar years, the idea of extending European integration to the sphere of defence has cropped up again and again in the history of the Old Continent.

In 1948, Belgium, Luxembourg, France, the United Kingdom and the Netherlands signed the founding treaty of the Western Union (WU)<sup>9</sup>, joining NATO in the following year. Even more germane to our

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<sup>4</sup> E. PIZZIMENTI, A. VANNUCCI, *Il concetto di sicurezza e le politiche per la sicurezza*, in *Riv. trim. di Scienza dell'Amministrazione*, 2005, n. 4, p. 52.

<sup>5</sup> EDITORIAL COMMENTS, *The passion for security in European societies*, in *Common Market Law Review*, 2024, p. 284.

<sup>6</sup> See in particular the Preamble to the TEU, which notes that the Member States are “resolved to implement a common foreign and security policy...,” as well as Articles 3.5 and 21. In the TFEU, see Article 2.4 and the several references to security in the list of areas where the Union shares competence with the Member States.

<sup>7</sup> In addition to the Preamble to the TEU, which describes the Member States as being “resolved to facilitate the free movement of persons, while ensuring the safety and security of their peoples” and mentions the area of freedom, security and justice; see also Articles 67.3 and 73.

<sup>8</sup> In the name of security, the Member States are afforded the power to derogate from community decisions. See for example Articles 36, 45 and 202, 65 TFEU for the free movement of goods, persons, services and capital; Article 52.1 on the right of establishment of foreign nationals; Article 72 on the area of freedom, security and justice. See also Articles 276 and 346.

<sup>9</sup> Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence, signed in Brussels on March 17, 1948.



purposes here was the so-called “Pleven Plan”<sup>10</sup> for common defence that led to the Treaty establishing the European Defence Community (EDC) calling for a unified army which would respond in the event of an armed attack on one of the signatory states<sup>11</sup>.

The EDC was to have shared the Parliamentary Assembly and the Court of Justice with the ECSC, but had fewer supranational features than the latter<sup>12</sup>.

This solution would have sidestepped the controversies involved in German rearmament by making West German forces part of a supranational European army, while the idea underlying the ECSC was to create a common market for resources that were also used by the armaments industry. The importance of the defence question became even clearer when the world’s countries split into two opposing blocs, a rift exemplified by the Korean War<sup>13</sup>.

Though signed in Paris, the EDC Treaty became a dead letter when the French assembly refused to ratify it. This refusal also sank the coeval plans for a European Political Community, leaving an indelible mark on the integration process.

For a considerable period afterwards, in fact, the integration process neglected the defence sector, where collaborative initiatives took a parallel path, inevitably linked to the United States. In 1954, Italy and the Federal Republic of Germany also joined the Western Union, which with the new Treaty became the Western European Union (WEU)<sup>14</sup>.

European defence was thus no longer at the center of specific integration initiatives, aside from a few draft plans that were in any case rejected<sup>15</sup>. In the meantime, starting from the early Sixties, the idea began to take shape of making common decisions in the more general sphere of external policy. From its informal beginnings, this idea became institutional reality with Single European Act’s (1987) call for the development of a European identity in external policy matters via a closer cooperation on questions of “European security” and in the armaments sector<sup>16</sup>.

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<sup>10</sup> The Plan reflected the proposals by Jean Monnet.

<sup>11</sup> European Defence Community Treaty, signed in Paris on May 27, 1952.

<sup>12</sup> P. PREZIOSA, D. VELO, *La difesa dell’Europa*, Cacucci, Bari, 2019, p. 24.

<sup>13</sup> A. VARSORI, *Stati Uniti e Gran Bretagna: la questione della difesa europea dopo lo scoppio della guerra di Corea*, in P.L. BALLINI (ed.), *La Comunità europea di Difesa (CED)*, Rubbettino, Soveria Mannelli, 2009, p. 5.

<sup>14</sup> A.H. BERTANA, *L’impact de la guerre en Ukraine sur la coopération européenne en matière de la défense: simple sursaut ou véritable éveil?*, in *Revue de l’Union européenne*, 2023, n. 664, p. 45.

<sup>15</sup> Y. DOUTRIAUX, *La boussole stratégique et l’invasion de l’Ukraine par la Russie*, in *Revue de l’Union européenne*, 2022, n. 661, p. 468, referring to the 1961 and 1962 Fouchet plans.

<sup>16</sup> C. CELLERINO, *La difesa europea dinanzi alla guerra in Ucraina tra “autonomia strategica” e vincoli strutturali: quali prospettive per la Difesa comune?*, in *Il diritto dell’Unione europea*, 2022, p. 12 f.



### 3.2. Towards a common defence

Plans for a common defence made their official entry in the Union's charters only with the Maastricht Treaty, whose Preamble spoke of the Member States' "resolve" to "implement a common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence...".

The Treaty established the Common Foreign and Security Policy (CFSP) as the second pillar of the system, and Article J.4 TEU defined its scope as including "all questions relating to the security of the Union, including the eventual framing of a common defence policy..." (in terms mirroring those in the Preamble and Article B), but offered no details about specific action. In what was essentially a compromise between the idea of maintaining solid ties with the other side of the Atlantic and giving life to a more markedly European defence, the Member States were to be able to cooperate more closely as part of the WEU and NATO, provided that their cooperation did not run counter to the CFSP<sup>17</sup>.

With the subsequent Amsterdam Treaty, prospects for a common defence seemed to take firmer form, and it was felt that the Treaty's provisions had laid the foundations for a European security and defence policy "as a distinct part of the CFSP legal framework"<sup>18</sup>.

First, the Treaty specified that the principles and general guidelines for the CFSP were to be defined by the European Council, and should include those for "matters with defence implications".

Second, the Treaty's provision that the framing (referred to as "progressive") of a common defence policy is to be decided on by the European Council is reinforced by the explicit mention of cooperation in the field of armaments.

Lastly, the Treaty strengthened the bond between the EU and the WEU with a view to integrating the latter into the Union, and established that the WEU provides operational capacity for the CFSP and support in the Union's decisions and actions involving the defence sector<sup>19</sup>.

After the significant normative shift introduced by the Amsterdam Treaty, the next decisive moment in the evolution of the ESDP was marked by the joint declaration issued at Saint-Malo by the heads of state and government of two of the major European powers, France and the United Kingdom, which stated that the Union must play its full role on the international stage by implementing the Amsterdam Treaty's provisions on CFSP, particularly as regards the framing of a common defence policy<sup>20</sup>.

These words were taken up in the following year by the European Council. In Cologne, the summit approved a declaration on the development of a common ESDP, establishing that discussions on aspects

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<sup>17</sup> Y. DOUTRIAUX, *La boussole stratégique et l'invasion de l'Ukraine par la Russie*, cit., p. 468.

<sup>18</sup> L. PALADINI, *La graduale definizione di una politica di difesa comune dell'UE*, in *DPCE online*, 2023, n. 3, p. 2398 f.

<sup>19</sup> By providing for various kinds of civilian and military interventions in crisis situations, Article 17 TEU established the basis for peace-keeping missions outside the Union from 2003 onwards.

<sup>20</sup> [Joint Declaration on European Defence](#), issued at the British-French Summit (Saint-Malo, December 4, 1998).



of security “might include the possibility of a stand-by capacity to pool national civil resources and expertise”<sup>21</sup>.

In Helsinki, the European Council, in reasserting its “determination to develop an autonomous capacity to take decisions” but noting that the process “does not imply the creation of a European army”, established the objectives to be pursued for security and defence<sup>22</sup> and agreed that temporary or permanent bodies and structures would be set up within the Council whereby the EU could accomplish its new tasks<sup>23</sup>.

In the early 2000s, with the enlargement to anti-Russian Eastern European countries and differences of opinion on how to respond to terrorism, the gap widened between those who hoped for a truly European defence and those who felt that national interests would be better served under the NATO umbrella<sup>24</sup>.

In the meantime, further changes came with the 2001 Treaty of Nice, which introduced a reference to the Political and Security Committee (Article 25) and substantially eliminated the WEU from Article 17 TEU. Like the Saint-Malo Declaration, these changes were undoubtedly a reaction to the Yugoslav wars and the harsh light they had shown on the European states’ shortcomings in guaranteeing security and keeping peace in the region<sup>25</sup>.

Further developments in the ESDP came in the following years.

In 2004, the Council established the European Defence Agency (EDA), a voluntary body intended to “support the Council and Member States in their effort to improve the Union’s defence capabilities in the field of crisis management and to sustain the European Security and Defence Policy”<sup>26</sup>.

Still on the operational front, multinational military units known as EU Battlegroups were introduced in 2007, though they are few in number and have been infrequently deployed<sup>27</sup>.

### 3.3. The Treaty of Lisbon

The evolution of primary law proceeded with the Treaty of Lisbon, which incorporated the ESDP—now called the CSDP or Common Security and Defence Policy—in the CFSP and assigned it greater importance, as witnessed both by the change of name, with the addition of “common,” and the decision

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<sup>21</sup> Cologne European Council of June 3-4, 1999.

<sup>22</sup> Conclusions of the Helsinki European Council of December 10-11, 1999, also Annex IV and related Annexes.

<sup>23</sup> M. LEFEBVRE, *L'Europe de la défense entre moment ukrainien et retour de l'OTAN*, in *Revue de l'Union européenne*, 2022, n. 661, p. 487.

<sup>24</sup> C. RISI, *La costruzione della dimensione europea di sicurezza e difesa*, in C. RISI, A. RIZZO (ed.), *L'Europa della sicurezza e della difesa*, Editoriale Scientifica, Napoli, 2016, p. 57.

<sup>25</sup> A. MISSIROLI, *La difesa europea: politica, obiettivi, strumenti*, in A. MISSIROLI, A. PANSA, *La difesa europea* (L. ANGELINO ed.), Il Nuovo Melangolo, Genova, 2007, p. 37.

<sup>26</sup> Council Joint Action 2004/551/CFSP of July 12, 2004, Article 2.

<sup>27</sup> Document [Eu Battlegroups](#).

to devote a more extensive set of provisions to it in Chapter 2, Section 2 of Title V TEU (Articles 42-46).

On the whole, however, a close reading of these provisions reveals a lack of clarity about how their subject-matter is defined and how tasks are allocated to the various actors.

In outlining provisions for the areas of Union competence, Article 2 TFEU addresses defence in an ambiguously worded paragraph<sup>28</sup> which indicates that the shared competence rule does not apply to defence, taking its cue from the “even vaguer expressions” employed by the TEU (in Article 24.1, for instance). In addition, by again using the wording “progressive framing”, the article acknowledges the difficulty of arriving concretely at this policy<sup>29</sup>, further penalized by its incorporation in the CFSP<sup>30</sup>.

In Section 2, in fact, the CSDP is defined as an integral part of the CFSP, providing the operational capacity that allows the EU to use civil and military assets on missions outside the Union for peace-keeping, conflict prevention and strengthening international security (Article 42.1 TEU), a more extensive list than in the past.

However, the potential scope of this new policy was limited by a provision in the *Protocol on the concerns of the Irish people on the Treaty of Lisbon*, added in June 2009 in a bid to ensure a favorable vote by the Irish electorate in the second ratification referendum, which specifies that the Treaty does not provide for the creation of a “European army”<sup>31</sup>.

The Treaty also addressed institutional questions, confirming the Political and Security Committee<sup>32</sup> (PSC) and increasing the competences of the High Representative<sup>33</sup>. In addition, it codified the EDA<sup>34</sup> as the CSDP’s instrument for permanent cooperation open to all Member States and carrying out projects to develop defence capabilities as well as research in collaboration with the arms industry.

Important changes also included the obligation of aid and assistance in the event of armed aggression (Article 42.7 TEU) and the inclusion in the Treaty of the mechanism of Permanent Structured Cooperation (PESCO), eliminating all references to the WEU. PESCO, the “institutional framework for

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<sup>28</sup> Article 2.4 TFEU states: “The Union shall have competence, in accordance with the provisions of the Treaty on European Union, to define and implement a common foreign and security policy, including the progressive framing of a common defence policy”.

<sup>29</sup> E. GREPPI, *Politica estera e difesa europea*, in M. VELLANO, A. MIGLIO (ed.), *Sicurezza e difesa comune dell’Unione Europea*, Wolters Kluwer Italia (CEDAM), Milano, 2023, p. 5 f.

<sup>30</sup> A. RIZZO, *Aspetti istituzionali e giuridici della politica di sicurezza e difesa comune dell’Unione europea*, in C. RISI, A. RIZZO (ed.), *L’Europa della sicurezza e della difesa*, Editoriale Scientifica, Napoli, 2016, p. 187.

<sup>31</sup> D. MORO, *La difesa europea e il problema del suo finanziamento*, in *Centro Studi sul Federalismo*, Commenti, n. 292, 29.3.2024.

<sup>32</sup> Art. 38 TEU, already included in Article J8 of the Maastricht Treaty, also referred to in Articles 43 TEU, 222 and 71 TFEU.

<sup>33</sup> On the point B. NABLI, *Europe : du « réveil géopolitique » à l’autonomie stratégique ?*, in *Revue de l’Union européenne*, 2024, pp. 4, 7.

<sup>34</sup> Article 42.3 indent 2 defines the EDA as the “Agency in the field of defence capabilities development, research, acquisition and armaments (hereinafter referred to as ‘the European Defence Agency’)”.



the joint development of defence capabilities under the CSDP<sup>35</sup>, was known for some time as the “Sleeping Beauty” of EU defence<sup>36</sup>. PESCO was launched in 2017<sup>37</sup> and requires participating States to increase their investment expenditure in building defence capabilities and to honor the binding commitments made at the time of joining. Malta’s decision to opt out is an example of PESCO’s operation as a form of differentiated integration<sup>38</sup>.

Current opinions of PESCO differ widely. In some quarters, it is regarded as “the most promising framework for this type of pragmatic collaboration”<sup>39</sup> since it makes up for some of the limitations of the European governance and normative framework<sup>40</sup>. In others, it is seen as rather weak, given that decisions by the Council must be unanimous and there are no mechanisms to ensure that the States abide by their commitments<sup>41</sup>.

Another change introduced by the Treaty of Lisbon that could usher in greater integration in defence is the language in Article 42.7 TEU stating that if one of the Member States is the victim of armed aggression, the others must come to its aid. This is a new provision, which echoes Article 5 of the Atlantic Pact in some respects and departs from it in others<sup>42</sup>.

“Armed aggression”, the condition under which the article is invoked, is to be understood in the sense contemplated by Article 51 of the United Nations Charter and, more generally, by international law, but might not be easy to identify (e.g., in the case of cyberattacks). As the aggression must be against the territory of a Member State as defined by Article 355 TFEU, the provision would not appear to apply to attacks against seagoing vessels, aircraft or armed forces outside said territory, especially if they are accidental<sup>43</sup>.

Article 42.7, however, is something of an outlier in that it neither provides for a procedure to be followed, specifies what role European institutions have in the various stages, or indicates the legal instruments to be adopted.

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<sup>35</sup> A. MIGLIO, *Lo sviluppo di capacità di difesa e la cooperazione strutturata permanente*, in M. VELLANO, A. MIGLIO (cur.), *Sicurezza e difesa comune dell’Unione Europea*, Wolters Kluwer Italia (CEDAM), Milano, 2023, p. 64.

<sup>36</sup> A. MIGLIO, *Lo sviluppo di capacità di difesa e la cooperazione strutturata permanente*, cit., p. 70.

<sup>37</sup> Council Decision (CFSP) 2017/2315 of December 11, 2017 establishing Permanent Structured Cooperation (PESCO) and establishing the list of participating Member States (implementing the above-mentioned Article 42.6 and Article 46, as well as Protocol 10 TEU); in this regard, see also the 2017 *Reflection Paper on the Future of European Defence*, approved by the Commission in the margins of the coeval White Paper on the Future of Europe, *Reflection Paper on the Future of European Defence*, 7.6.2017.

<sup>38</sup> L. PALADINI, *La graduale definizione di una politica di difesa comune dell’UE*, cit., p. 2410.

<sup>39</sup> A. GIURICKOVIC DATO, *L’Unione europea di fronte alla crisi ucraina*, in *federalismi*, 2023, n. 23, p. 161.

<sup>40</sup> K. ENGELBREKT, *European Participation in International Military Operations: National Decision-Making and the Role of EU Institutions*, in G. VOSKOPOULOS (ed.), *European Union Security and Defence. Policies, Operations and Transatlantic Challenges*, Springer, Cham, 2021, p. 97.

<sup>41</sup> A. GIURICKOVIC DATO, *L’Unione europea di fronte alla crisi ucraina*, cit., p. 161.

<sup>42</sup> L. PALADINI, *La graduale definizione di una politica di difesa comune dell’UE*, cit., p. 2414.

<sup>43</sup> EDITORIAL COMMENTS, *The response to the war in Europe: A more power based EU and the challenge of ensuring that it remains rule and value based*, in *Common Market Law Review*, 2022, p. 638 f.



The article has sparked disagreement among the Member States. Some, including Poland and, more recently, the Baltic countries, hold that collective defence should continue to be a prerogative of NATO, which they believe offers stronger guarantees than any entirely European protection. The neutral Member States, headed up by Austria and Ireland, are not openly in favour of operationalizing Article 42.7 TEU, as it runs counter to their neutral status. Germany and several other countries are staunch supporters of operationalization, while another group pushes the idea that the provision is already fully in effect. This latter faction consists of Greece and Cyprus, who consider collective defence to be a “European guarantee” against Turkey, as well as Sweden and Finland, especially before they joined NATO. France has taken yet another stance, calling for the mutual defence clause to be reinforced to flank NATO’s Article 5<sup>44</sup>.

### 3.4. Funding defence

One of the major obstacles to a common defence is funding, which under the terms of Article 41 TEU is to be provided chiefly by the Member States. The article states that the administrative expenditure required to implement the CSDP is to be charged to the Union budget. Operating expenditure for this purpose is also charged to the Union unless it arises from operations with military and defence implications, in which case it is to be charged to the Member States unless the Council unanimously decides otherwise. Similarly, the Council can unanimously decide not to apply the general rule whereby the expenditures charged to the Member States are apportioned to them on the basis of their gross national product, as are their contributions to a start-up fund financing operations in the defence or military sector.

To some extent, limits to EU expenditure have been offset by the creation of common support mechanisms outside the EU budget, as well as by grants and contributions from the Union.

Among the off-budget instruments, mention should be made of the European Peace Facility, or EPF<sup>45</sup>. Established in 2021, the EPF finances the common costs of operations charged to the Member States, monitors progress made by partner countries and regional and international organizations in strengthening their military and defence capabilities, and supports the military aspects of peace-keeping operations.

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<sup>44</sup> On the history and the legal basis of the relations between the EU and NATO, see also P. MARIANI, D. GENINI, *EU and NATO: The Legal Foundation of an Extraordinary Partnership*, in *Eurojus*, 2023, n. 4, p. 187 ff.

<sup>45</sup> Council Decision (CFSP) 2021/509 of March 22, 2021 establishing a European Instrument for Peace and repealing Decision (CFSP) 2015/528 establishing the former Athena mechanism.



As for EU grants, a fundamental role is played by the European Defence Fund. Announced in Juncker’s 2016 State of the Union address<sup>46</sup>, illustrated by the Commission in the following year<sup>47</sup>, and set up in 2021 to replace previous instruments and help Member States cope with rising costs<sup>48</sup>, the Fund cofinances defence investment projects presented by eligible legal entities in order to “support collaborative research” and the “collaborative development of defence products and technologies.”

Though the Conclusions of the European Council of March 2024 appear to confirm the reluctance to fund a common defence<sup>49</sup>, the European institutions and a number of political leaders have recently expressed the need to increase Member States’ spending in this area, for instance by issuing “European defence bonds.” The idea, however, is likely to encounter significant difficulties<sup>50</sup>.

#### 4. The European Union and strategic autonomy

The changes on the international scene over the past decade have reignited interest in building a common European defence. Some of the major reasons for this can be found in the shift in the posture adopted by the United States, which since Obama’s presidency has been channeling more attention—and money—to Asia rather than to Europe<sup>51</sup>; Brexit, which limited the opportunities for collaboration with the United Kingdom to the sphere of NATO or bilateral relations, but also meant that the Member State that had been least receptive to the prospects of concrete cooperation no longer had a seat at the table<sup>52</sup>; and the growing threats to security heralded by the earlier invasion of Ukraine in 2014<sup>53</sup>.

Against this backdrop, the second attack on Kyiv spurred a return to the debate on common defence, and to a concept—strategic autonomy—that had been aired nearly a decade earlier.

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<sup>46</sup> J. JUNCKER, State of the Union address 2016: *Towards a better Europe — A Europe that protects, empowers and defends*, 14.9.2016.

<sup>47</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Establishment of the European Defence Fund*, COM(2017) 295, 7.6.2017.

<sup>48</sup> Regulation (EU) 2021/697 of the European Parliament and of the Council of 29 April 2021 establishing the European Defence Fund and repealing Regulation (EU) 2018/1092 and, *amplius*, R. CHAKER, *Les Fonds européen de la défense : genèse, ambitions et premier bilan*, in *Revue de l’Union européenne*, 2023, n. 670, p. 390 f.

<sup>49</sup> Conclusions of the European Council of March 21-22, 2024, section II. In inviting the Council, the European Commission and the High Representative to present proposals for financing military expenditures, the conclusions refer chiefly to national defence.

<sup>50</sup> As noted by D. MORO, *La difesa europea e il problema del suo finanziamento*, cit., the President of the European Council made a call for European Defence Bonds during the EDA Annual Convention in November 2023, while a few months later the European Commissioner for the Internal Market estimated that the EU needed a fund of at least 100 billion euros to support its military industry. The Eurobond issue was brought up again in statements released in early 2024 by the President of the French Republic, the Estonian Prime Minister and the Italian Minister of Foreign Affairs, while the President of Italy’s Council of Ministers expressed the need for “innovative solutions.”

<sup>51</sup> A.H. BERTANA, *L’impact de la guerre en Ukraine sur la coopération européenne en matière de la défense : simple sursaut ou véritable éveil ?*, cit., p. 45.

<sup>52</sup> I.A. NICOTRA, *Guerra e crisi energetica. Per l’Unione Europa gli esami non finiscono mai*, in *Istituzioni del Federalismo*, spec. n. 1-2, 2022, p. 27. On the point see also F. SALMONI, *Guerra o pace. Stati Uniti, Cina e l’Europa che non c’è*, Editoriale scientifica, Napoli, 2022, p. 246.

<sup>53</sup> F. BELLOU, *The Strategic Context of the European Security and Defence Policy*, cit., pp. 25-34.



One of the term's first appearances in the defence sector was in 2013, when, in response to the wars in Syria and Libya, the European Council called for measures to strengthen the CSDP, noting that a more solid technological and industrial base would “*enhance the EU's strategic autonomy and its ability to act with partners*”<sup>54</sup>.

The second milestone in the concept's evolution was the global strategy presented in 2016 by the then-High Representative Mogherini<sup>55</sup>, which referred expressly to *strategic autonomy* as the general goal of the CFSP/CSDP, seeing it as key to safeguarding the interests and values of European society, and thus as the means of countering complex threats.

In the following years, the term came into much wider use, extending to a variety of sectors<sup>56</sup>. Though expressing the idea of independence, it was preferred to other, apparently similar locutions<sup>57</sup>, precisely because it makes no reference to sovereignty<sup>58</sup>.

Once the concept had gained currency, the Union and Member States jointly analyzed their shared threats and challenges. This stage, which ended in 2020, was followed by informal discussions of these threats and their impact on each State.

Another major milestone was the Versailles Declaration (March 10-11, 2022), which expressly stated that the EU would take more responsibility for its own security and defence, pursuing a strategic course of action and increasing its capacity to act autonomously, while acknowledging that NATO remains the foundation of collective defence for its members<sup>59</sup>. Guidance for this action was to be provided by a document issued shortly after the Declaration, the *Strategic Compass for Security and Defence*<sup>60</sup>, which set a series of goals whereby the Union could “defend the European security order”, specifying the means for doing so. In particular, the Compass rests on four pillars: act, secure, invest, and partner.

The first pillar concerns the most significant means of enabling the Union “to act rapidly and robustly whenever a crisis erupts”. Committing the Member States to reinforce civilian and military missions, it

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<sup>54</sup> European Council, *Conclusions on Common Security and Defence Policy*, 19–20.12.2013, and, on the point, F. HOFFMEISTER, *Strategic Autonomy in the European Union's External Relations Law*, in *Common Market Law Review*, 2023, p. 668.

<sup>55</sup> *Shared vision, common action: A stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy*, 28.6.2016.

<sup>56</sup> F. HOFFMEISTER, *Strategic Autonomy in the European Union's External Relations Law*, cit., p. 668 f.

<sup>57</sup> A. GERY, E. NOËL, *La recherche de son autonomie stratégique numérique par l'Union européenne*, in *Revue de l'Union européenne*, 2023, n. 666, p. 152.

<sup>58</sup> B. NABLI, *Europe : du « réveil géopolitique » à l'autonomie stratégique ?*, in *Revue de l'Union européenne*, 2024, p. 9.

<sup>59</sup> EDITORIAL COMMENTS, *The response to the war in Europe: A more power based EU and the challenge of ensuring that it remains rule and value based*, in *Common Market Law Review*, 2022, pp. 623-640.

<sup>60</sup> *A strategic compass for security and defence - For a European Union that protects its citizens, values and interests and contributes to international peace and security*. The first draft was presented in November 2021 by the High Representative. Between February and March 2022, it was discussed and amended to reflect the opinions of the Member States, European Commission initiatives such as the “defence” and “space” packages presented on February 15, 2022, and the attack on Ukraine. The Compass was approved by the Council of the European Union on March 21, and adopted by the European Council on March 24-25, 2022.

calls for more flexible decision-making (through constructive abstention or closer cooperation) and for stronger command and control structures<sup>61</sup>.

The second goal is to enhance the Union's security by being better prepared for cyberattacks and hybrid threats through a stronger presence on the high seas, in the air, and in outer space, and increased resilience against the risks associated with climate change, natural and man-made disasters.

The third aim is to harness the full potential of investments, with a more targeted use of the European Defence Fund, which is key to promoting collaboration between Member States.

The fourth pillar of the Strategic Compass is partnering, or strengthening cooperation with individual states or regions of the world, as well as with other international organizations, not least in order to counter hybrid threats, disinformation and cyberattacks<sup>62</sup>. Without going into detail about relations with the United Kingdom<sup>63</sup>, the document confirmed the centrality of NATO, with whose aims the EU's security and defence policy must continue to be compatible<sup>64</sup>.

On the whole, the Strategic Compass was a break with the past, but several aspects were still dependant on the will of the Member States, starting with the envisaged size of the armed forces, which some consider insufficient<sup>65</sup>.

Though it also tends to promote initiatives that are outside the CSDP's purview—dealing with outer space and maritime security, for instance<sup>66</sup>—in its overall approach the Compass appears to assign the predominant role to the military sphere, in a view of security focused largely on the concerns posed by external threats (“our security at home depends on peace beyond our borders”)<sup>67</sup>.

It has also been pointed out that this integrated approach is undermined by the principle of conferral, making it more reasonable to hope for a strategic coordination of actions than for a single strategic action<sup>68</sup>. Moreover, the Compass's vagueness is accentuated by the evident desire to avoid using the term sovereignty<sup>69</sup>.

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<sup>61</sup> An explanation of the Compass's content is provided by *La bussola strategica dell'Unione europea*, in *Eurojus*, 11.4.2022, p. 2.

<sup>62</sup> P. DE PASQUALE, F. FERRARO, *L'autonomia strategica dell'Unione europea: dalla difesa. . . alla politica commerciale c'è ancora tanta strada da fare*, in *Diritto pubblico comparato ed europeo*, 2023, n. 2, p. VII.

<sup>63</sup> C. SAGONE, *L'integrazione europea alla prova del conflitto russo-ucraino*, in *Istituzioni del Federalismo*, 2022, spec. n. 1-2, p. 95.

<sup>64</sup> P. DE PASQUALE, F. FERRARO, *L'autonomia strategica dell'Unione europea: . . .*, cit., p. XII s.

<sup>65</sup> M. VELLANO, *La guerra in Ucraina e le conseguenti decisioni dell'Unione europea in materia di sicurezza e difesa comune*, in *Diritto dell'Unione europea*, 2022, n. 1, p. 131.

<sup>66</sup> M.E. BARTOLONI, *La Politica di sicurezza e di difesa comune dell'UE: verso un'“autonomia strategica” o “strategie in autonomia”?*, in *Istituzioni del Federalismo*, 2022, spec. n. 1-2, p. 47 f.

<sup>67</sup> L. PINESCHI, *La nozione di “sicurezza” nel sistema internazionale dell'Unione europea*, in E. CASTELLI (ed.), *Coesione interna e sicurezza internazionale. Quali sfide per la pace europea?*, Editoriale Scientifica, Napoli, 2023, p. 51.

<sup>68</sup> M.E. BARTOLONI, *La Politica di sicurezza e di difesa comune dell'UE: . . .*, cit., p. 64.

<sup>69</sup> EDITORIAL COMMENTS, *Keeping Europeanism at bay? Strategic autonomy as a constitutional problem*, in *Common Market Law Review*, 2022, p. 314.



The Compass's implementation is monitored via a process in which the High Representative prepares annual reports with input from the Commission and the EDA. The first of these reports spoke of “significant progress and... concrete results” but failed to mention the deadlines that had not been met and other serious shortcomings<sup>70</sup>. The second report noted that progress had been made for all four pillars, but admitted that “more remains to be done... and much depends on Member States to provide necessary resources, forces and capabilities”<sup>71</sup>.

## 5. The reaction to the war in Ukraine

The Ukrainian crisis thus provided a major impetus to build a European defence system and, more generally, made the European Union keenly aware of its responsibility for guaranteeing security inside and outside its borders. In addition to rethinking its role, the EU also moved—compactly and, on the whole, fairly quickly, according to some observers<sup>72</sup>—to field a concrete response to the crisis on multiple fronts.

On the military front, the European Union agreed to finance supplies of military material and platforms for the lethal use of force, as well as of fuel, protective devices and first-aid kits designed for non-military purposes<sup>73</sup>. However, the decision to fund this type of aid, hitherto virtually unknown, through the European Peace Facility did not fail to attract comment.

In November 2022, the EU Military Assistance Mission in support of Ukraine (EUMAM Ukraine) was launched to provide training support and strengthen the Ukrainian Armed Forces' capacity to defend Ukraine's territorial integrity and sovereignty and protect the civilian population<sup>74</sup>. The decision was reached through the constructive abstention mechanism, as Hungary opted not to participate<sup>75</sup>.

On the financial front, the EU took immediate action, providing Ukraine with macrofinancial aid<sup>76</sup>. This first general measure was followed by a consecutive series of packages funding military equipment for

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<sup>70</sup> *Annual Progress Report on the Implementation of the Strategic Compass for Security and Defence*, 2023.

<sup>71</sup> *Annual Progress Report on the Implementation of the Strategic Compass for Security and Defence*, 2024.

<sup>72</sup> So writes S. POLI, *La portata e i limiti delle misure restrittive dell'Unione europea nel conflitto tra Russia e Ucraina*, in *SIDIBlog*, 22.3.2022, of the initial response. An opposing opinion is advanced by M. VELLANO, *La guerra in Ucraina...*, cit., p. 135, who maintains that the war triggered a “disorganized reaction” by the parties responsible for the EU's external action, giving further proof of the complexity and lengthiness of the mechanisms involved in the area.

<sup>73</sup> Council Decisions (CFSP) 2022/338 (approved with a couple of abstentions), justifying intervention under the pretext of “helping to strengthen the capabilities and resilience of the Ukrainian armed forces to defend the territorial integrity and sovereignty of Ukraine and protect the civilian population from ongoing military aggression” (Article 1.2) and Council Decision 2022/339, 28.2.2022.

<sup>74</sup> See the [mission's institutional web page](#).

<sup>75</sup> Council of the European Union (Foreign Affairs), draft minutes, 17.10.2022, doc. 13777/22 ADD 1.

<sup>76</sup> Decision (EU) 2022/313 of the European Parliament and of the Council, 24.2.2022.



the country's armed forces, again drawing on the European Peace Facility (EPF)<sup>77</sup>. Among economic initiatives, funds were mobilized to set up “solidarity lanes” enabling Ukraine to export its grain<sup>78</sup>.

Nor did the EU remain silent on the humanitarian front, as it immediately activated the temporary protection scheme for refugees contemplated by Directive 2001/55/EC<sup>79</sup> and instituted aid programs for civilians affected by the war. Moreover, the Union made its voice heard on the political front, reiterating—especially in statements by the European Council—its unanimous condemnation of Russia, imposing a series of financial sanctions, and putting a new perspective, to which we will return shortly, on its relations with Ukraine.

In the run-up to the election, the main European parties presented partially different ideas on the prospects for a common defence. If, with the exception of the Socialists, almost all agreed on the desirability of a strengthening of NATO<sup>80</sup> and the plans were substantially aligned on the idea of an increase in national defence spending (not supported by the Greens), more varied were the positions on the use of common debt instruments to support defence spending and, above all, on the creation of a common army, explicitly stated by the People's Party, opposed by the ECR and the Party of the European Left and on which the plans of the PES, Renew Europe and the Greens remained more nuanced<sup>81</sup>.

The change of perspective in the relationships with Ukraine brings us to the second major external challenge the new Parliament will be called on to face, that of enlargement.

## 6. Enlargement's onward march

Almost from the beginning, European integration has grappled with a constant tension between its two dimensions that has tellingly been dubbed the widening vs. deepening dilemma. On the one hand, the addition of new members can bring benefits, extending the model espoused by the Communities first and the Union later; on the other, it raises concerns about the growing number of decision-makers and, especially after the most recent entries, about the political, economic and juridical differences between old and new members, which could prove detrimental to the Union's health.

Though the enlargement process has not always been straightforward—with its long pauses broken by sudden spurts of activity, and its individual entries, “group” accessions, negotiations that came to naught and even one withdrawal—it has continued down to our own time and seems likely to do so in the future,

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<sup>77</sup> Decision (CFSP) 2021/509, 22.3.2021.

<sup>78</sup> It is remembered by C. SAGONE, *L'integrazione europea alla prova del conflitto russo-ucraino*, cit., p. 88.

<sup>79</sup> Council Implementing Decision (EU) 2022/382 establishing the existence of a mass influx of displaced persons from Ukraine in accordance with Article 5 of Directive 2001/55/EC and giving effect to the introduction of temporary protection, 4.3.2022.

<sup>80</sup> According to the Greens, however, it is the individual states and not the EU that should be in dialogue with NATO.

<sup>81</sup> The positions of ID, which did not draw up a common programme, were not taken into account.



presenting the newly elected Parliament (as well as the other institutions) with a series of questions that are far from easy to answer.

To date, European enlargement has taken place in seven steps, though it might be more exact to say that there were six, considering the accession of Romania and Bulgaria as the “second half” of the fifth enlargement. The first enlargement came in 1973, when the then twenty year old Community expanded its borders to encompass the United Kingdom, Ireland and Denmark. The second, in 1981, saw the entry of Greece, while the third, five years later, brought Spain and Portugal. The fall of the Berlin wall led, albeit indirectly, to the arrival of three neutral states, Sweden, Austria and Finland, in 1995, but also triggered the candidacies of many Central and Eastern European states, eight of which—Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Slovenia and Hungary—together with Malta and Cyprus became part of the Union in the mass entry of 2004, followed by another two, Bulgaria and Romania, in 2007. The latest to join was Croatia in 2013, while the first withdrawal in the history of the Union—that of the United Kingdom—took place a few years later<sup>82</sup>.

Alongside the successful membership bids, mention should be made of Norway and Iceland and their failed candidacies. Norway submitted no fewer than three applications, and though the last two were accepted, its citizens voted against joining, while Iceland, in the throes of a crisis and a change of government, proceeded in 2015 to ask that the application it had made six years earlier be taken out of consideration.

## **7. Joining the European Union: procedures and requirements**

The admission of new members was contemplated from the time of the original version of the Treaties, which indicated the procedure to be followed<sup>83</sup> and stated a single condition: that they be *European* states. This term can be interpreted in the strict sense or in a figurative sense. In the first case, “European” refers to the geographical area consisting of the continent of Europe, an apparently clear choice—as witnessed by the rejection of Morocco’s application for membership—that nevertheless does not resolve the uncertainties posed by states such as Turkey or Russia whose territory spans two continents. In the broad sense, the notion of “European” refers to the “geographical, historical and cultural elements which

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<sup>82</sup> The decision was announced in 2017, on the basis of a referendum held in the previous year; withdrawal came into force in 2020. On the issues raised by Brexit, see also F. SAVASTANO, *Uscire dall’Unione europea. Brexit e il diritto di recedere dai Trattati*, Giappichelli, Torino, 2019.

<sup>83</sup> Art. 98 CECA: “Any European State may apply to accede to this Treaty. It shall address its application to the Council which shall act unanimously after obtaining the opinion of the High Authority; the Council shall also determine the terms of accession, likewise acting unanimously. Accession shall take effect on the day when the instrument of accession is received by the Government acting as depositary of this Treaty”; similarly, Article 205 EURATOM and Article 237 EEC.





all contribute to the European identity,” as the Commission itself noted, stating at the same time that it did not intend to assign an official definition to the concept<sup>84</sup>.

At the time of the first accessions, assessments centered on the candidates’ economic systems. The process was straightforward and raised few issues, reflecting the loose nature of the ties that the Communities then entailed, as well as the fact that these systems were in many respects similar to those of the original Member States. When the three Mediterranean ex-dictatorships applied to join, references to the Member States’ pluralist democracy in the institutions’ statements increased<sup>85</sup>, signaling that the European construction’s foundations are not simply economic.

The real turning point, however, came in the first half of the Nineties. After the progress made in the integration process with the foundation of a Union whose aims went abundantly and declaredly beyond merely creating a common market, a sizeable number of countries whose past was far different from the founders’ had come knocking at that Union’s door. In response, Brussels decided to compile a checklist of accession criteria hammered out first in a political setting and then incorporated in the text of the Treaties. In June 1993, the European Council established that future accessions were to be subject to four conditions, three applying to candidates and one applying to the Union itself.

The first three required that candidates satisfy political criteria, viz., “stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities”, economic criteria, described as “the existence of a functioning market economy as well as the capacity to cope with competitive pressures and market forces within the EU” and judicial criteria concerning “the candidate’s ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union”.

The fourth criterion was the Union’s capacity “to absorb new members, while maintaining the momentum of European integration” and was called “absorption capacity”<sup>86</sup>.

The checklist was extended in the following years to include the conditions of good neighborly relations and administrative capacity<sup>87</sup>.

While the subsequent accession of Austria, Finland and Sweden still took place following fairly informal rules (though when Norway applied for membership, protection of minority rights was also considered), the runup to the fifth enlargement was a complex process, where the Commission’s yearly checks on

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<sup>84</sup> *Europe and the Challenge of Enlargement*, in *Bulletin of the European Communities*, Supplement 3/92, p. 11, adopted in view of the Nordic states’ accession, specifies that “the shared experience of proximity, values and historical interaction cannot be condensed into a simple formula, and is subject to review by each succeeding generation”.

<sup>85</sup> See the Conclusions of the Copenhagen European Council, April 7-8, 1978, and in particular the “Declaration on Terrorism” (on the murder of Aldo Moro), which stresses the Member States’ firm resolve to “do everything to protect the rights of individuals and the foundations of democratic institutions”.

<sup>86</sup> Copenhagen European Council, June 21-22, 1993.

<sup>87</sup> Essen European Council, December 9-10, 1994 and Madrid European Council, December 15-16, 1995.



fulfilment of membership conditions<sup>88</sup> were flanked by a number of instruments and financial aid programs intended to help would-be members meet requirements<sup>89</sup>.

The Commission's annual screening also made it possible to flesh out the rather generic formula coined at Copenhagen in a more concrete form that, with further additions, was also to be used in the future. The political criteria were considered of paramount importance, and required candidates to have a strong system of representative democracy based on free elections, an active opposition, an independent and impartial judiciary, effective central and local administration, effective policies against corruption, and protection of human rights, specifically those that had been curbed under the candidate countries' previous regimes (such as freedom of expression) and those that had become problematic—minorities' civil and social rights, for instance—in the post-communist transition.

How important the accession criteria are was confirmed during the fifth enlargement when, despite a predominantly “inclusive” approach, the entry of Bulgaria and Romania was postponed until after that of the other Central and Eastern bloc applicants precisely because of their failure to reach the required levels in certain areas<sup>90</sup>.

In the meantime, accession criteria were elevated from the political to the normative sphere. The Treaty of Amsterdam amended Article F, the new Article 6, to introduce wording in paragraph 1 that defined “liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law” as the founding principles of the Union. Even more importantly, it amended Article O (the new Article 49) governing access to the Union by flanking the geographical requirement (“Any European state”) with a political condition (“which respects the principles set out in Article 6.1”)<sup>91</sup>. The Treaty also established that the political criteria were an additional condition for remaining in the Union, empowering the Council to suspend the rights of States that commit a serious breach of these principles (Article 7).

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<sup>88</sup> From 1998 onwards, the Commission prepared an annual screening report to determine how well prepared each candidate country was to fulfill membership requirements. The Reports followed the points outlined in the Commission Opinion on the accession application and were published together with a Strategy Paper setting the guidelines for the following year's enlargement process. All documents are available on the European Commission website.

<sup>89</sup> Financial aid had been provided since 1989 via the Phare program. Noteworthy instruments included the Association Agreements, which provided the institutional framework for implementing the accession process, and the Accession Partnerships, which set out areas where candidate countries need to make progress in meeting conditionality requirements. On the preparations for the fifth enlargement, see T. CERRUTI, *L'Unione europea alla ricerca dei propri confini. I criteri politici di adesione e il ruolo dei nuovi Stati membri*, Giappichelli, Torino, 2010, p. 12 ff.

<sup>90</sup> For these two countries, it was also agreed to launch a special instrument, the Cooperation and Verification Mechanism, which should verify their progress but in which, especially with reference to Bulgaria, according to G. GUERRA, “(Continuare a) indorare la pillola nuoce alla salute”. *Sui limiti del Meccanismo per lo Stato di diritto alla luce del caso bulgaro tra accondiscendenza e complicità della Commissione*, in *Rivista di Diritti Comparati*, 2021, n. 3, p. 239 ff., the Commission shows considerable indulgence in the verification of the political criteria.

<sup>91</sup> The procedure contemplated by Article O of the Maastricht Treaty required the applicant State to satisfy admission conditions spelled out in an agreement between the applicant and the Member States.



The most recent major innovation in primary law was the Treaty of Lisbon, which also brought changes for new accessions. In particular, the procedure now requires that the European Parliament and the national parliaments of the Member States be notified of applications for accession. As regards the criteria, mentions of fundamental principles (now “values” in the current Article 2 TEU), and the commitment to uphold and promote them were extended to include human dignity and the need to take into account the “conditions of eligibility agreed upon by the European Council”, a formula that appears to give the Council the power to deny access to a country that meets the previously established criteria by setting new requirements. Additionally, the Treaty addressed the question of changes to the Union’s border in the opposite sense to enlargement, for the first time expressly stating provisions for the withdrawal of a Member State (Article 50).

## **8. Ups and downs in the enlargement process and the open questions**

Like all European policies, enlargement has seen a series of ups and downs that belie the increasing attention—and the more detailed provisions in the Treaties—devoted to it. Unsurprisingly, these swings, together with the changing international scene, make it one of the major challenges to be faced by the new Parliament. The main parties running in the elections did not take a clear stance against the prospect of further enlargement.

The aftermath of the great enlargement of 2004-2007 demonstrated the complexity of an operation that saw the almost simultaneous entry of twelve new states into a Union with just fifteen members. In a system still governed for the most part by intergovernmental mechanisms, the impact of this wholesale accession could have shaken the Union’s balance of power.

The first inklings of discontent with this enlargement came when two of the Union’s founding members rejected the Constitutional Treaty in 2005, dealing a major blow to the integration process.

In that period, the enlargement process also showed signs of flagging, as the institutions began to make increasingly frequent appeals to the so-called fourth Copenhagen criterion, regarding the EU’s capacity to absorb new members while maintaining the momentum of integration, which until then had remained in the background<sup>92</sup>. It seemed as if the Union wanted to put itself in a position where it could refuse entry even to states that fulfilled the requirements, on the grounds that the EU itself was not ready to admit them.

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<sup>92</sup> Among the various documents adopted on the subject see the Bruxelles European Council Conclusions, June 15-16, 2006, point 53; the Communication from the Commission to the Council and the European Parliament. *Enlargement Strategy and Main Challenges 2006-2007 including a special report on the European Union's capacity to integrate new Member States*, COM(2006) 649, 8.11.2006; the Report on the institutional aspects of the European Union's capacity to integrate new Member States, A6-0393/2006, 16.11.2006.



But a renewed consensus on enlargement prevailed. The new strategy for maintaining the pace of expansion was based on three elements: keeping the EU's commitments towards all candidate countries; conditionality, i.e., linking the candidates' accession to the fulfillment of set conditions; and better and more transparent communication, which would ensure "broad and sustained public support." These elements were to be "combined" with the EU's capacity to integrate new members, which required that EU "be able to function effectively and to develop."

These new guidelines and those approved in the following years were the basis for further developments in enlargement policy, which now encompassed three different areas of the continent: the Balkans, the former Soviet states of Eastern Europe, and Turkey. The latter country's progress has been particularly slow. Though Ankara signed an Association Agreement with the Communities as early as 1963, it did not apply for admission until 1987, and was granted candidate status only in 1999. Negotiations got under way in 2005, but are proceeding in fits and starts because of the complexities of the country's internal situation and international relations. It is likely that the leaden pace of these talks reflects, however indirectly, misgivings about the impact that Turkey's entry could have on the EU's political, economic and demographic equilibrium.

## **9. The Western Balkan countries**

The Western Balkan countries now involved in the enlargement process include Albania and five states that were part of the former Yugoslavia, either as a federated republic, as in the cases of Bosnia and Herzegovina, Montenegro, North Macedonia, and Serbia, or as a province (Kosovo).

As mentioned earlier, the Union laid the foundations for the area's gradual rapprochement in the second half of the Nineties, stating that moving forward with relations would hinge on meeting the Copenhagen criteria and certain further conditions relating to the region's tumultuous history and politics. Emphasizing the fundamental importance of the principles of conditionality, the General Affairs Council laid down general conditions applying to all Western Balkan countries in 1997. These conditions included compliance with obligations under the peace agreements, opportunities for displaced persons and refugees to return to their place of origin, a commitment to engage in democratic reforms, guarantee human and minority rights and hold free and fair elections, absence of discriminatory treatment and harassment of minorities, independent media, implementation of first steps of economic reform, and good neighborly and cooperative relations. In addition, specific conditions were set for each country.

For this group of countries as for previous applicants, the Union did not limit itself to setting conditions, but also supported them in fulfilling the requirements through a variety of instruments, the chief of which is the so-called Stabilisation and Association Process, or SAP. Launched in 1999, the SAP consists of a



number of components and is designed to operate in synergy with other initiatives in the region. The SAP is based on contractual relations called Stabilisation and Association Agreements, which are entered into once certain requirements are met and promote gradual integration between the regional and European economies by establishing free trade areas with harmonized policies.

Among financial aid instruments, mention should be made of the Community Assistance for Reconstruction, Development and Stabilisation program (CARDS), replaced in 2009 by the single Instrument for Pre-Accession Assistance (IPA).

The EU's openness to the full integration of the Western Balkans announced at the Cologne meeting in 1999 was soon confirmed by several subsequent European Councils, most emphatically at Thessaloniki in 2003. Here, on the sidelines of the traditional summit of European Heads of State and Government, European leaders organized a meeting with their Balkan counterparts that endorsed a Declaration and an Agenda that would serve as a roadmap for future mutual relations<sup>93</sup>.

Though patterned after the approach deployed for the fifth enlargement, the process employed for the Western Balkan countries differed in several important respects, especially as regards how conditionality was applied.

The first difference was in pre-accession screening, where a new stage was added for these countries: those that do not yet meet all of the criteria for being awarded candidate status are identified as potential candidates.

The second difference is that each of the countries moves forward in the accession process on the basis of its actual progress in fulfilling the criteria, thus avoiding the inclusive approach taken for the fifth enlargement, which had “turned a blind eye” to the shortcomings of certain candidates so that they could enter together with the others. Annual country reports are still prepared for each country, though this procedure has been modified for North Macedonia and Albania, where negotiations are to some extent conducted jointly<sup>94</sup>.

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<sup>93</sup> Thessaloniki European Council, June 19-20, 2003.

<sup>94</sup> Because candidates move through the process at a rate dictated by their own merits and progress, almost all of the six countries are now at different stages on their road to rapprochement. North Macedonia applied for membership in 2004, was granted candidate status in 2005, but opened accession negotiations only in 2022, despite earlier recommendations by the Commission. Montenegro asked to enter in 2008, was granted candidate status in 2010 and started negotiations in 2012. Albania submitted its application in 2009 and received candidate status in 2014, though negotiations did not formally open until 2022 despite previous favorable input. Serbia asked to join in 2009, was declared a candidate in 2012, and opened negotiations in 2014. Bosnia and Herzegovina presented a membership application in 2016 but remained at a standstill until 2022, when candidate status was granted following the EU's decision to do the same for Moldova and Ukraine; negotiations were greenlighted in the following year. Kosovo, whose independence has not yet been recognized by all EU Member States, is the only country in the region that still has potential candidate status. On the topic see also F. SAVASTANO, *Trasformazioni costituzionali nell'ordinamento dell'Unione europea*, Giappichelli, Torino, 2023, p. 77 ff. On the peculiarities of Bosnia and Herzegovina's constitutional system, see J. WOELK, *Le transizioni costituzionali della Bosnia ed Erzegovina. Dall'ordinamento imposto allo Stato multinazionale sostenibile?*, CEDAM, Padova, 2008; L. BONIFATI, *Constitutional Design and the Seeds of Degradation in Divided Societies: The Case of Bosnia-Herzegovina*, in



The third difference, inevitable in a system whose mechanisms are still largely intergovernmental, consists in the fact that submitting a single applicant to scrutiny by twenty-seven or twenty-eight countries cannot fail to result in a more severe judgement than was the case when twelve candidates were evaluated by fifteen Member States.

The experience of Croatia, so far the only country in this region to have been accepted into the Union, confirms the impression of more rigorous conditionality that emanates from the accession documents and the statements of the European institutions<sup>95</sup>.

Though its attitude has been one of substantial caution, the EU has continued to develop tools and strategies to ensure a concrete perspective for the Balkans' integration in the Union.

One such initiative is the Berlin Process, set up in 2014 to hold annual intergovernmental summits between the Member States and the Western Balkans dealing chiefly with progress in fulfilling accession criteria<sup>96</sup>.

As part of a new medium-term enlargement strategy, the Commission introduced a "strengthened approach to its assessment in the annual reports" in 2015. With the new approach, the EU committed to a more detailed scrutiny of each country's progress and state of play in nine "pilot areas." The number of pilot areas was increased in the following year.

In 2018, the enlargement process seemed poised for a surge when the Commission set 2025 as the target date for Serbia and Montenegro's accession, though neither country is likely to be ready by then.

Two years later, new changes were made in the accession process, in an attempt to make it more effective by simplifying the procedures and increasing cooperation. These changes sought to achieve four goals: more credibility, stronger political steering, a more dynamic process, and predictability (meaning that conditions must be clear from the outset)<sup>97</sup>. As regards credibility, it was decided to take a forward-looking approach, addressing the fundamental reforms first in the negotiations, monitoring them regularly and considering them complete only at the end of the accession process<sup>98</sup>. To facilitate fulfilling the opening benchmarks and identify the priority reforms, the more than 30 negotiation chapters were

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*European Constitutional Law Review*, 2023, p. 236 ff. On issues related to the recognition of Kosovo S. NOVAK, *Can the EU Make Member States Recognise Kosovo?*, in *Croatian Yearbook of European Law and Policy*, 2023, p. 299 ff.; G. SKARA, F. XHAFERAJ, *The Impact of Judgments in Spain v Commission (Kosovo) on Kosovo EU Membership*, in *Croatian Yearbook of European Law and Policy*, 2023, p. 317 ff.

<sup>95</sup> A.O. COZZI, F.E. GRISOSTOLO, *Condizionalità europea e identità costituzionali. Un'introduzione*, in *DPCE online*, 2023, p. 3295, comment on the "lengthy and 'fatiguing'" negotiations with the Balkan countries.

<sup>96</sup> F. SAVASTANO, *Trasformazioni costituzionali nell'ordinamento dell'Unione europea*, cit., pp. 83, 94 ff.

<sup>97</sup> General Affairs Council, March 25, 2020, Conclusions, point 3 and Commission, *Communication Strengthening the accession process - A credible European perspective for the Western Balkans*, COM(2020) 57, 5.2.2020. In this regard see L. MONTANARI, *Condizionalità e allargamento, tra valori e politica*, in *Diritto pubblico comparato ed europeo*, 2023, p. 281.

<sup>98</sup> Roadmaps have been set for the rule of law chapters (whose benchmarks must be met before other chapters are closed) and for the functioning of democratic institutions and public administration reform, while high-level engagement will be increased through more frequent meetings between the candidates' governments and the Member States.



grouped into six thematic clusters: Fundamentals (including, among other chapters, those on Judiciary and fundamental rights, Justice, freedom and security, Functioning of democratic institutions, and Economic criteria; Internal Market (including the chapters covering the free movement of goods, workers and capital); Competitiveness and inclusive growth (including Economic and monetary policy, and Social policy and employment); Green agenda and sustainable connectivity; Resources, agriculture and cohesion; and External relations.

For more rigorous conditionality, a system of incentives (i.e., rewards and sanctions) pinned to progress in implementing reforms was introduced<sup>99</sup>. These incentives apply chiefly to the more problematic areas: shaky foreign relations and, on the domestic level, persistent issues involving the stability of the countries' institutions and social ills.

Consequently, economic assistance is dependent on the progress shown in the annual reports, especially as regards the parameters covered in the chapters on rule of law and the functioning of democratic institutions<sup>100</sup>. In particular, these parameters deal with fighting corruption and organized crime; how the judiciary is recruited and operates, where certain countries have made radical changes to protect judicial independence<sup>101</sup>; public administration reform; and freedom of information.

As for economic criteria, regional integration must precede the Western Balkans' assimilation in the European system. To this end, Serbia, Albania and North Macedonia established a common regional market called Open Balkan in 2021. As the name implies, the initiative is open to membership applications from other countries in the region. As was the case at the beginning of the European unification project, the region's economic integration should help resolve the bilateral disputes that still divide the Western Balkans.

In this connection, the Berlin Process has been flanked by another opportunity for dialog in the regular EU-Western Balkans Summits. These meetings, first held in Sofia in 2018, bring together the heads of state or government from the EU Member States and the Western Balkan partners to discuss the issues afflicting the region.

In late 2023, the New Growth Plan for the Western Balkans was adopted to bring the region's countries close to the Union by offering some of the benefits of memberships ahead of their accession, thus boosting economic growth and quickening the pace of convergence. The Plan is based on four pillars: enhancing economic integration with the European Union's single market, boosting economic

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<sup>99</sup> F. SAVASTANO, *Trasformazioni costituzionali nell'ordinamento dell'Unione europea*, cit., p. 63 ff.

<sup>100</sup> On the IPA III pre-accession instrument see European Commission, *An Economic and Investment Plan for the Western Balkans*, SWD(2020) 223.

<sup>101</sup> On the ability of the judiciary to reflect the pluralism of societies in some Balkan legal systems R. TONIATTI, *The Principle of Reflective Judiciary in Divided Societies: Challenges and Opportunities in the Western Balkans*, in *Rivista di Diritti comparati*, 2023, p. 181 ff.



integration within the Western Balkans through the Common Regional Market, accelerating fundamental reforms, and increasing financial assistance to support the reforms through a Reform and Growth Facility for the Western Balkans for the period 2024-2027<sup>102</sup>.

Apart from the difficulty in meeting benchmarks, several factors have slowed the Western Balkans' progress along their long European path. Periods of enthusiasm have alternated with moments of mounting skepticism on the part of the would-be members, demoralized by the spiraling delays and their own chronic economic woes. Nor should we forget the backwash from the war in Ukraine which, though it sped up the accession process by motivating the Commission to grant candidate status to Bosnia and Herzegovina and open negotiations with Albania and North Macedonia<sup>103</sup>, has had an impact that is both economic and political. Domestically fragile to begin with, the Western Balkans have responded to the war with measures that take them even further from meeting the EU's criteria, while on the external front they have had to take positions vis-à-vis Ukraine and Russia that have put a strain on their relationships among themselves.

## 10. Eastward, ever eastward

The second region of the continent that has recently been involved in the enlargement process lies on the Union's eastern reaches, where the republics of Georgia, Moldova and Ukraine are hoping to join. Bilateral relations between these countries and the Union began immediately after their independence from the Soviet Union, and intensified in the following years when they were brought under the umbrella of the European Neighbourhood Policy, or ENP. In 2009, the ENP launched the Eastern Partnership, one of the forms of regional cooperation, which also involves Armenia, Azerbaijan and Belarus, though the latter country has suspended its participation<sup>104</sup>.

The intention of forging closer ties with some of these states emerged as early as 2001, when following the terrorist attacks of September 11, Ukraine and Moldova were invited together with Russia to participate in the European Conference, a multilateral forum set up in 1997 for policy coordination between the Member States and aspiring members.

On the institutional level, all three countries entered into negotiations for an Association Agreement; for Georgia and Moldova, agreements were signed and came into force in 2016.

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<sup>102</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *New growth plan for the Western Balkans*, COM(2023) 691, 8.11.2023.

<sup>103</sup> European Council Conclusions, December 15, 2022.

<sup>104</sup> T. KOMAROVA, A. ŁAZOWSKI, *Switching Gear: Law Approximation in Ukraine After the Application for EU Membership*, in *Croatian Yearbook of European Law and Policy*, 2023, p. 105 ff., note with reference to Ukraine that a process of regulatory adjustment had been underway since the end of Soviet domination, so the decision to open negotiations at the end of 2023 does not represent a radical breakthrough.





Ukraine did not find such plain sailing. Negotiations started in 2007, but the agreement was not signed until 2014, when parts were provisionally applied. It fully entered into force in 2017, not without raising objections among the Member States. In particular, a referendum in the Netherlands rejected the country's Association Agreement Approval Act on the basis of a number of concerns. In response to these concerns, the European Council concluded in 2016 that the Association Agreement does not commit the Union to Ukraine on a number of fronts, as it does not require that additional financial support be provided, grant Ukrainian citizens the right to reside and work freely within the territory of the Member States, oblige the Member States to provide military aid or assistance, grant candidate status to Ukraine, or promise to admit Ukraine as a Member State in the future<sup>105</sup>.

The armed aggression that since February 2022 has wrought death and destruction across much of Ukraine and, tragically, continues to this day, has brought a renewed sense of urgency to Ukraine's aspirations to membership and those of the two other countries in the region that are similarly threatened. For its part, the European Union, perhaps motivated also by humanitarian considerations, mounted a more incisive response than that shown in recent enlargements.

Only a few days after hostilities broke out, President Zelensky presented an accession application, followed by his counterparts in Georgia and Moldova; the European Council, which at the time of the invasion had acknowledged Ukraine's wish to join and its right to choose its own destiny, urged the Commission to submit its Opinion on these applications<sup>106</sup>, which as in the past were viewed favorably by the European Parliament<sup>107</sup>.

On the basis of the Commission's opinions<sup>108</sup>, the European Council granted Ukraine and Moldova candidate status in June. For Georgia, the Commission limited itself to repeating the priorities that the European Commission had indicated must be addressed<sup>109</sup>. A mere six months later, however, again following the November reports, the European Council extended candidate status to Georgia and recommended that accession negotiations be opened with Ukraine and Moldova<sup>110</sup>.

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<sup>105</sup> European Council of December 15, 2016, especially the Annex to the Conclusions.

<sup>106</sup> European Council of February 24, 2022 and March 24-25, 2022, respectively.

<sup>107</sup> European Parliament resolution of March 1, 2022 on Russian aggression against Ukraine (2022/2564(RSP)). As early as September 2021, in addition to encouraging the EU to strengthen its defence capabilities, Parliament had entertained the prospect of membership for the Eastern Partnership countries who had signed an Association Agreement. In any case, the intention of establishing closer ties with Ukraine with an eye to its eventual accession had been expressed even earlier (for instance the *European Parliament resolution on the results of the Ukraine elections*, P6\_TA(2005)0009).

<sup>108</sup> F. FABBRINI, *L'Unione europea verso l'allargamento*, Comment n. 277, in *Centro Studi sul Federalismo*, 10.11.2023, notes how the Commission's decision was purely political, not supported by objective assessments.

<sup>109</sup> European Council, June 23, 2022.

<sup>110</sup> A. LANG, *Una "sedia vuota" al Consiglio europeo del 14-15 dicembre 2023*, in *Eurojus*, 18.12.2023, draws attention to the fact that the decision was not shared, again, by Hungary, whose president was absent at the time of the vote.

The three countries are thus formally subject to the same type of screening used for the other countries involved in the enlargement process. As outlined above, this screening addresses the three groups of Copenhagen criteria, divided into six clusters<sup>111</sup>. Inevitably, however, the wide differences between these aspiring members<sup>112</sup>, and in the political backdrop to their candidacies (which had been put on the agenda, but with a far different timeline), cast doubt on whether the treatment accorded to them, however understandable it may be in certain respects, can be compared with the more rigorous approach taken with the Western Balkan countries. Likewise, we might also wonder whether there can be any advantages in opting for an ill-prepared accession over lengthy and carefully considered processes.

While a sort of fast-track accession—which in any case would have done nothing to stem the tragedy still unfolding on the continent—was indeed suggested and rejected for Ukraine, it is hard to image how such a process could be injected, if not harmoniously at least not in complete dissonance, into the dynamics and principles that have guided the European Union’s enlargements to date.

Advocates of a fast-track accession argue that its chiefly symbolic value would bring benefits both to Ukraine and to international order<sup>113</sup>. Ukraine would reap advantages because democracy and rule of law would be assigned greater weight than they now have under the Association Agreement, and would enjoy European financial support in pursuing reforms. At the international level, fast-tracking membership would convince the world—and Russia especially—of the EU’s close interest in Ukraine<sup>114</sup>, which is making itself felt continually and on multiple levels.

The idea’s opponents, who prefer a gradual approach, advance arguments that, bearing in mind the parties concerned, seem decidedly more compelling.

First, at the level of principle and from the European Union’s standpoint, the absorption or integration capacity must necessarily be factored in whenever the community opens its doors to new members. Second, as demonstrated by the disagreements with Poland and Hungary—which in the case of the latter country, most tellingly came to the fore in connection with its stance on Russia—efforts to strengthen internal bonds that are not yet as solid as might be hoped must not be undermined by a change in equilibria that damages the entire supranational organization and, consequently, the countries aspiring to enter.

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<sup>111</sup> In connection with Ukraine’s membership bid, M. CARTA, *Lo Stato di diritto alla prova dell’allargamento dell’UE (o l’allargamento della UE alla prova dello Stato di diritto)*, in *Eurojus*, 2022, n. 4, p. 191, draws attention to the important role that the European Parliament can play in assessing the rule of law before the Association Agreement is signed.

<sup>112</sup> On the constitutional model adopted in these three countries and the tensions affecting it, see A. DI GREGORIO, *Lo spazio ex sovietico tra “costituzionalismo” euroasiatico e condizionalità europea*, in *DPCE*, 2023, p. 3 ff.

<sup>113</sup> R. PETROV, C. HILLION, “*Accession through war*” – *Ukraine’s road to the EU*, in *Common Market Law Review*, 2022, p. 1289 ff., outline the prospect of membership in war as a variant of normal membership.

<sup>114</sup> I. KIROVA, *Ukraine’s EU membership bid - symbolic, yes, but essential*, in *Euobserver.com*, 10.3.2022; K. CULVER, D. KOCHENOV, *Immediate Eu membership for Ukraine? In Conversation with Dimitry Kochenov*, in *Review of Democracy*, 2022.



Given that these countries and, specifically, the three states on the Union's eastern flank that concern us here, are required to meet accession criteria, it is clearly opportune that they be allowed to enter only after it has been demonstrated that these criteria have in fact been fulfilled. It is true that the experience of certain current Member States has shown that "promotion" to membership in particular historical and political circumstances does not give immunity to subsequent changes in the conditions on which admission was based<sup>115</sup>. But it is also true that implementing any necessary reforms beforehand ensures a much firmer foundation than does than lowering the bar in exchange for promises of later progress.

The third argument concerns the state outside the Union, and rests on what is almost a question of fairness: if the three ex-Soviet candidates are fast-tracked, where does that leave the other countries now involved in the enlargement process or those that are still waiting in the wings?

As discussed above (see section 9), the first group includes countries that have long been at a standstill on the road to membership, pending recognition of their progress towards eligibility, often because they are still far from meeting the criteria for internal stability and good neighborly relations. The second group might take it for granted that they should be treated on a par with Ukraine, as has indeed been the case with Georgia and Moldova who, themselves embroiled in Moscow's aggression, applied for membership a few days after Ukraine. Even apart from the importance of meeting accession criteria, these three countries' entry would oblige the Union's institutions, economy and judicial system to assimilate an enlargement of possibly indigestible size. Ukraine alone has—or rather, before the war began, had—around forty-four million inhabitants, more than twice the fewer than twenty million new citizens the Union would gain if all the candidate or potential candidate countries in the Western Balkans were to join at the same time. Here again, then, the question of absorption capacity comes into play.

A final group of arguments concerns the global dimension and, while mindful of a people's right to choose its own destiny, draws attention to the manifold implications of admitting a country at war to the Union. Though Ukrainian membership in NATO<sup>116</sup> would be an even worse scenario for Russia, it is clear—as witnessed by the dubious coincidence between the signing of Ukraine's Association Agreement with the EU and the occupation of Crimea in 2014—that further rapprochement with Brussels would also irk Moscow<sup>117</sup>. This raises myriad questions (tinged, admittedly, with veiled egotism), about the consequences to the European Union—which has already seen the situation as an incentive to bolster its

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<sup>115</sup> This has been pointed out, *inter alii*, by A. CIRCOLO, *La condizionalità politica nella dimensione esterna e interna dell'azione dell'Unione europea*, in *Diritto dell'Unione europea*, 2022, p. 247 f.

<sup>116</sup> Moreover, such a scenario is provided for in the Constitution itself, as observed by J. FROSINI, V. LAPA, *Mere aspirazioni di un Paese in guerra? Le disposizioni euroatlantiche nella Costituzione dell'Ucraina*, in *Quaderni costituzionali*, 2022, p. 614 f.

<sup>117</sup> M. CHIARUZZI, *Il conflitto ucraino: una guerra contro l'allargamento dell'Unione?*, in *Eublog.eu*, 4.3.2022.



defences—of a Russian attack on Ukraine as a Member State, and whether it would trigger Article 42.7 TEU.

### **11. The future of defence and enlargement in a constantly evolving Union**

Inevitably, the two great outside challenges awaiting the European Union—building a common defence and expanding its borders—have repercussions on the bloc’s internal dynamics and structure. In facing these challenges, the EU must once again ask what it sees itself as today and what it hopes to become tomorrow.

Creating a unified army, in fact, would continue the process that other fundamental choices have instigated in bringing the Union closer to statehood, and further from the model of an international organization. This is even truer if the army were charged to the Union budget or viewed as part of the strategic autonomy trope. Having an army evokes the ideas of defending the homeland, of belonging to a nation, of identifying with a territory, all notions with deep roots in nationhood. The inescapable conclusion is that moving forward in creating a common defence means moving forward towards greater integration.

This rosy picture of a Union with stronger internal bonds is blighted by the regrettable fact that even now, in the third millennium, integration would thus be accomplished via an instrument—the military—which by its very nature is associated with the use of force. This instrument runs counter to the European project itself, officially justified by economic considerations but in fact created to prevent new wars on the continent, independently of whether they involve Member States or their neighbors. Common security will strengthen integration, but it should be a security linked to the wellbeing of Europe’s citizens, pursued by safeguarding social rights using, ideally, pooled resources.

The second challenge, enlargement, could portend forces that spin the Member States apart rather than tying them closer together if it is not hemmed in with appropriate conditions. Though the European project has always pursued the goal of widening while deepening, the “fatigue” that has weighed on enlargement policy in recent years—far from justifying EU membership without meeting the accession criteria—would suggest that the less demanding forms of cooperation contemplated by the European Neighbourhood Policy<sup>118</sup> could be a valid alternative to full accession, at least temporarily and for some countries.

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<sup>118</sup> D. DEVRIM, E. SCHULZ, *Enlargement Fatigue in the European Union: From Enlargement to Many Unions*, Working Paper 13/2009, in *realinsitutoelcano.org*, 10.3.2009.



Symptoms of this fatigue can be seen in a number of projects, such as the European Political Community proposed by the French President Macron, whose intent seems to be precisely that of offering an alternative to demands for immediate accession<sup>119</sup>.

For the states on the Union's eastern flank (but the same might also apply to Turkey), aspirations to membership are legitimate, but the ideal approach would be a rapprochement process that, though faster than the norm, passes at least at the beginning through routes other than accession and only later runs the institutional gauntlet, without undue haste and in full compliance with the rules that guide, albeit haltingly at times, the enlargement process.

Far different is the case of the Western Balkan countries, or at least those that have been working for years to meet the accession criteria and are slowly moving towards the end of the process, and whose membership bids must be assessed independently of the circumstances affecting other countries.

In conclusion, the outside challenges awaiting the new Parliament, as well as the other newly installed institutions, will be decisive not only in determining the Union's role as an independent player on the international stage, but will also affect its internal arrangements: what it will look like from inside. Here, there may be no change; there may be developments that strengthen the community aspect and bring new amendments to the Treaties onto the agenda; or the sense of community may falter, sapping the Treaties of their strength. It is to be hoped that the newly elected Parliament will continue along the high road to building a common European home, maintaining the first scenario, moving on to the second only when the time is right, and striving energetically to prevent the third.

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<sup>119</sup> Among the supportive voices raised, especially in French scholarship, in favor of such a perspective see L. WALZ, *Penser l'adhésion autrement. Réflexion sur les perspectives européennes de l'Ukraine*, in *Revue de l'Union européenne*, 2022, n. 662, 570 ff.