

P7_TA-PROV(2012)0456

EU mutual defence and solidarity clauses: political and operational dimensions

European Parliament resolution of 22 November 2012 on the EU's mutual defence and solidarity clauses: political and operational dimensions (2012/2223(INI))

The European Parliament,

- having regard to Article 42(7) of the Treaty on European Union (TEU) and to Article 222 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to Articles 24 and 42(2) TEU, Articles 122 and 196 TFEU and Declaration 37 on Article 222 TFEU,
- having regard to the Charter of the United Nations, and in particular to the provisions of its Chapter VII and Article 51,
- having regard to the European Security Strategy adopted by the European Council on 12 December 2003, and to the report on its implementation endorsed by the European Council on 11-12 December 2008,
- having regard to the Internal Security Strategy for the European Union endorsed by the European Council on 25-26 March 2010,
- having regard to the European Union Counter-Terrorism Strategy adopted by the European Council on 15-16 December 2005,
- having regard to Articles 4 and 5 of the North Atlantic Treaty,
- having regard to the Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organisation, adopted at the NATO Summit in Lisbon on 19-20 November 2010,
- having regard to the decision to dissolve the Western European Union,
- having regard to the Council conclusions of 30 November 2009 on a Community framework on disaster prevention within the EU,
- having regard to the Commission communication of 26 October 2010 entitled ‘Towards a stronger European disaster response: the role of civil protection and humanitarian assistance’ (COM(2010)0600),
- having regard to the Commission communication of 22 November 2010 entitled ‘The EU Internal Security Strategy in Action: Five steps towards a more secure Europe’ (COM(2010)0673),

- having regard to the concept note on ‘Arrangements for Crisis Coordination at EU political level’ endorsed by Coreper on 30 May 2012¹,
 - having regard to its resolutions of 22 May 2012 on the European Union’s Internal Security Strategy², of 14 December 2011 on the impact of the financial crisis on the defence sector in the EU Member States³, of 27 September 2011 on ‘Towards a stronger European disaster response: the role of civil protection and humanitarian assistance’⁴, and of 23 November 2010 on civilian-military cooperation and the development of civilian-military capabilities⁵,
 - having regard to the 2009 EU CBRN Action Plan⁶ and to its resolution of 14 December 2010 on strengthening chemical, biological, radiological and nuclear security in the European Union - an EU CBRN Action Plan⁷,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Foreign Affairs and the opinions of the Committee on Constitutional Affairs and of the Committee on Civil Liberties, Justice and Home Affairs (A7-0356/2012),
- A. whereas the security of EU Member States is indivisible and all European citizens should have the same security guarantees and an equal level of protection against both traditional and non-conventional threats; whereas the defence of peace, security, democracy, human rights, the rule of law and freedom in Europe, which are indispensable for the wellbeing of our peoples, must remain a core goal and responsibility of European countries and of the Union;
- B. whereas the current security challenges include numerous complex and changing risks, such as international terrorism, the proliferation of weapons of mass destruction (WMD), states in disintegration, frozen and unending conflicts, organised crime, cyberthreats, the scarcity of energy sources, environmental deterioration and associated security risks, natural and man-made disasters, pandemics and various others;
- C. whereas the EU recognises an international order founded on effective multilateralism on the basis of international law, and this is an expression of Europeans’ conviction that no nation can face the new threats on its own;
- D. whereas security and combating international terrorism are considered as a priority for the EU; whereas a joint response and a common strategy are needed from all Member States;
- E. whereas in recent decades natural and man-made disasters, and in particular climate-driven disasters, have increased in frequency and scale, and a further increase is expected with the aggravation of climate change;

¹ 10207/12.

² Texts adopted, P7_TA(2012)0207.

³ Texts adopted, P7_TA(2011)0574.

⁴ Texts adopted, P7_TA(2011)0404.

⁵ OJ C 99 E, 3.4.2012, p. 63.

⁶ Council conclusions of 12 November 2009, 15505/1/09 REV.

⁷ OJ C 169 E, 15.6.2012, p. 8.

- F. whereas the progressive framing of a common defence policy which aims at a common defence is reinforcing the European identity and the strategic autonomy of the EU; whereas, at the same time, a stronger and more capable European defence is essential for consolidating the transatlantic link, in a context of structural geostrategic changes accelerated by the global economic crisis, and in particular at a time of ongoing US strategic repositioning towards Asia-Pacific;
- G. whereas the 21 EU Member States which are also members of NATO may consult each other whenever their territorial integrity, political independence or security is threatened, and are in any case committed to collective defence in the event of an armed attack;
- H. whereas, while Member States retain the primary responsibility for the management of crises within their territory, serious and complex security threats, from armed attacks to terrorism to natural or CBRN disasters to cyberattacks, increasingly have a crossborder nature and may easily overwhelm the capacities of any single Member State, making it vital to provide for binding solidarity among Member States and for coordinated response to such threats;
- I. whereas the Treaty of Lisbon introduced Article 42(7) TEU (‘mutual defence clause’ or ‘mutual assistance clause’¹) and Article 222 TFEU (‘solidarity clause’) to address such concerns, but almost three years after the treaty entered into force there are still no implementation arrangements to bring these clauses to life;

General considerations

1. Urges the Member States, the Commission and the Vice-President/High Representative to make full use of the potential of all relevant Treaty provisions, and in particular the mutual defence clause and the solidarity clause, in order to provide all European citizens with the same security guarantees against both traditional and non-conventional threats, based on the principles of indivisibility of security and of mutual solidarity among Member States, and taking into account the need for increased cost efficiency and a fair burden-sharing and division of costs;
2. Reiterates the need for the Member States and the Union to develop a policy anchored in prevention, preparedness and response with respect to all major security threats, notably as identified in the European Security Strategy, the Internal Security Strategy and the regular reports of the EU Counter-terrorism Coordinator to the Council;
3. Stresses the need for the Member States and the Union to perform regular joint threat and risk assessments, based on the joint analysis of shared intelligence and making full use of existing structures within the EU;
4. Notes the new strategic concept of NATO which, in addition to maintaining its role as a military alliance, aims to build up its capacity to act as a political and security community, working in partnership with the EU; notes the complementarities existing between NATO’s

¹ Hereinafter referred to as the ‘mutual defence clause’, although no name is given to the clause in ‘the Treaty. Cf., in particular, the mutual defence commitment contained in Article V of the Modified Brussels Treaty, which its signatories consider covered by Article 42(7) TEU (Statement of the Presidency of the Permanent Council of the WEU of 31 March 2010).

goals and those laid down in Article 43 TEU; warns, therefore, against the costly duplication of effort between the two organisations and the consequent waste of resources, and urges much closer and more regular political collaboration between the EU High Representative and the Secretary-General of NATO for the purposes of risk assessment, resource management, policy planning and the execution of operations, both civil and military;

5. While reaffirming that the protection of territorial integrity and of the citizens remains at the core of defence policy, urges the Council to emulate the approach of NATO, which caters for the inevitable circumstances where preventing external threats is required in order to promote the security interests of the allies and the projection of force is needed;
6. Reaffirms that the use of force by the EU or its Member States is only admissible if legally justified on the basis of the UN Charter; underlines, in this context, the inherent right of individual or collective self-defence; reiterates its attachment to respect for the Oslo Guidelines on the use of foreign military and civil defence assets in disaster relief; emphasises that the prevention of conflicts, attacks and disasters is preferable to dealing with their consequences;
7. Points out the wide array of instruments available to the Union and the Member States for facing exceptional occurrences in a spirit of solidarity; recalls the utility of the legal bases of Article 122 TFEU for economic and financial assistance to Member States in severe difficulties, and of Article 196 TFEU for measures in the field of civil protection;
8. Recalls the commitment to systematically develop mutual political solidarity in foreign and security policy in accordance with Article 24 TEU; notes the possibilities provided by the Treaty of Lisbon for enhanced cooperation in CFSP, including the consignment of specific tasks and missions to clusters of states, as well as the concept of permanent structured cooperation in military matters;
9. Stresses that the purpose of the mutual defence and solidarity clauses is not to replace any of these instruments, but to provide an umbrella framework in view of situations of extraordinary threat or damage, and in particular when response will require high-level political coordination and the involvement of the military, in accordance with the principles of necessity and proportionality;
10. Calls on the Commission and the Vice-President/High Representative, before the end of 2012, to make their joint proposal for a Council Decision defining the arrangements for the implementation of the solidarity clause according to the provisions of Article 222(3) TFEU, clarifying in particular the roles and competences of the different actors; calls, in the interest of coherence, for the Political and Security Committee and the Standing Committee on Internal Security to submit a joint opinion on the implementation of the solidarity clause, taking into account the political and operational dimensions of both clauses, including liaison with NATO; notes that the Council should act by qualified majority voting concerning non-military aspects of mutual aid and assistance; underlines the necessity, in this context, of keeping Parliament fully informed;

Mutual defence clause

Scope

11. Reminds the Member States of their unequivocal obligation of aid and assistance by all the means in their power if a Member State is the victim of armed aggression on its territory; stresses that, while large-scale aggression against a Member State appears improbable in the foreseeable future, both traditional territorial defence and defence against new threats need to remain high on the agenda; recalls also that the Treaty stipulates that commitments and cooperation in the area of mutual defence shall be consistent with commitments under NATO, which, for those states which are members of it, remains the foundation of their collective defence and the forum for its implementation;
12. Points out, at the same time and as being equally important, the need to be prepared for situations involving non-NATO EU Member States or EU Member States' territories that are outside the North Atlantic area and are therefore not covered by the Washington Treaty, or situations where no agreement on collective action has been reached within NATO ; also, in this connection, stresses the need to be able to use NATO's capabilities as foreseen in the Berlin Plus agreement;
13. Takes the view that even non-armed attacks, for instance cyberattacks against critical infrastructure, that are launched with the aim of causing severe damage and disruption to a Member State and are identified as coming from an external entity could qualify for being covered by the clause, if the Member State's security is significantly threatened by its consequences, while fully respecting the principle of proportionality;

Capacities

14. Emphasises the need for European countries to possess credible military capabilities; encourages Member States to step up their efforts in terms of collaborative military capability development, notably through the complementary 'Pooling and Sharing' and 'Smart Defence' initiatives of the EU and NATO, which represent a critically important way ahead in times of restrained defence budgets, privileging European and regional synergies rather than a short-sighted national approach; in this context, repeats its call for the work of the European Defence Agency to be fully made use of and taken into account by national defence ministries, and encourages the Member States and the EEAS to continue the debate with a view to establishing the permanent structured cooperation foreseen in the Treaty of Lisbon;
15. Considers that, in order to consolidate their cooperation, both NATO and the EU should concentrate on strengthening their basic capabilities, improving interoperability, and coordinating their doctrines, planning, technologies, equipment and training methods;
16. Reiterates its call for the systematic harmonisation of military requirements and for a harmonised EU defence planning and acquisition process, matching up to the Union's level of ambition and coordinated with the NATO Defence Planning Process; taking into account the increased level of security guarantees provided by the mutual defence clause, encourages the Member States to consider multinational cooperation in the area of capability development, and, where appropriate, specialisation, as core principles of their defence planning;

Structures and procedures

17. Invites the Vice-President/High Representative to propose practical arrangements and guidelines for ensuring an effective response in the event that a Member State invokes the

mutual defence clause, as well as an analysis of the role of the EU institutions should that clause be invoked; takes the view that the obligation to provide aid and assistance, expressing political solidarity among Member States, should ensure a rapid decision in Council in support of the Member State under attack; considers that consultations in line with the requirement of Article 32 TEU would serve this purpose, without prejudice to the right of each Member State to provide for its self-defence in the meantime;

18. Takes the view that, where collective action is taken to defend a Member State under attack, it should be possible to make use of existing EU crisis management structures where appropriate, and in particular that the possibility of activating an EU Operational Headquarters should be envisaged; stresses that a fully-fledged permanent EU Operational Headquarters is needed to ensure an adequate level of preparedness and rapidity of response, and reiterates its call on the Member States to establish such a permanent capacity, building on the recently activated EU Operations Centre;

Solidarity clause

Scope

19. Recalls that, if a Member State is the victim of a terrorist attack or of a natural or man-made disaster, the Union and the Member States have an obligation to act jointly in a spirit of solidarity to assist it, at the request of its political authorities, and that the Union shall in such cases mobilise all the instruments at its disposal, including the military resources made available by the Member States; recalls also the Union's obligation to mobilise all the instruments at its disposal to prevent terrorist threats in the EU and to protect democratic institutions and the civilian population from any terrorist attack;
20. Calls for an adequate balance between flexibility and consistency as regards the types of attacks and disasters for which the clause may be triggered, so as to ensure that no significant threats, such as attacks in cyberspace, pandemics, or energy shortages, are overlooked; notes that the clause could also cover serious incidents occurring outside the Union having a direct and substantial impact on a Member State;
21. Stresses the need for Member States to invest in their own security and disaster response capabilities and not to excessively rely on the solidarity of others; emphasises the primary responsibility of Member States for civil protection and security in their territory;
22. Takes the view that the solidarity clause should be invoked in situations that overwhelm the response capacities of the affected Member State or require a multisector response involving a number of actors, but that once a Member State has decided to invoke the clause, it should not be a matter for debate for the others to offer assistance; stresses that solidarity also entails an obligation to invest in adequate national and European capabilities;
23. Considers that the solidarity clause can provide the impetus for enhancing the EU's leverage among European citizens, offering tangible evidence of the benefits of increased EU cooperation in terms of crisis management and disaster response capabilities;

Capacities and resources

24. Stresses that the implementation of the solidarity clause should form an integral part of a permanent EU crisis response, crisis management and crisis coordination system, building

on the existing sectoral instruments and capabilities and providing for their effective mobilisation in order to deliver a coordinated multisector response when needed; stresses that, in principle, implementation should not lead to the creation of ad hoc tools;

25. Points out the fundamental role of the Civil Protection Mechanism as a key solidarity-based instrument for European rapid response to a wide spectrum of crises; supports the broad lines of the Commission's proposal to strengthen the mechanism¹, building on the 2010 Commission communication 'Towards a stronger European disaster response' and drawing inspiration from the 2006 Barnier report;
26. Notes the ongoing work to implement the Internal Security Strategy, in particular in the areas of counterterrorism, the fight against cybercrime and increasing resilience to crises and disasters; stresses that the implementation of the solidarity clause is not only a matter of setting up procedures for the moment a major crisis happens, but is fundamentally about capacity-building, prevention and preparedness; recalls the relevance of crisis management exercises, tailored for specific contingencies covered by the clause;
27. Notes that the creation of a voluntary pool of pre-committed civil protection assets would greatly improve EU preparedness and make it possible to identify existing gaps to be addressed; emphasises the importance of joint gap analyses to focus everyone's efforts efficiently and to make sure that each Member State contributes its fair share;
28. Considers that, in the case of high-cost assets, in particular those for lower-probability risks, it makes sound economic sense for Member States to identify solutions for the common investment in and joint development of such necessary tools, especially in the current context of the financial crisis; in the light of this, recalls the need to build on the expertise and experience of both the Commission and the European Defence Agency, as well as of other EU agencies;
29. Highlights the importance of ensuring that solidarity is underpinned by adequate EU-level funding mechanisms offering a sufficient degree of flexibility in emergencies; welcomes the proposed increased level of cofinancing under the Civil Protection Mechanism, in particular for transport costs; notes the provisions for emergency assistance under the proposed Internal Security Fund;
30. Recalls that the Solidarity Fund can provide financial assistance after a major disaster; recalls also that further Union financial assistance may be granted by the Council pursuant to Article 122(2) TEU, when a Member State is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control;
31. Recalls that, under the provisions of Article 122(1) TEU, the Council may decide on measures to address a difficult economic situation in a spirit of solidarity, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy; stresses the importance of seeing this provision as part of a comprehensive Union solidarity toolbox for addressing new major security challenges, such as those in the area of energy security and security of supply of other critical products, especially in cases of politically motivated blockades;

¹ See: Proposal for a Decision of the European Parliament and of the Council on a Union Civil Protection Mechanism (COM(2011)0934).

Structures and procedures

32. Stresses that the EU needs to possess capable crisis response structures with 24/7 monitoring and response capacity, able to provide early warning and up-to-date situation awareness to all relevant actors; notes the existence of a multitude of EU-level monitoring centres, and that this raises questions of efficient coordination in the event of complex, multidimensional crises; notes the establishment of the Situation Room within the European External Action Service, as well as the existence of a number of sectoral monitoring centres within Commission departments and specialised EU bodies; draws attention, in particular, to the Monitoring and Information Centre of DG ECHO, the Strategic Analysis and Response Capability of DG HOME, the Health Emergency Operations Facility of DG SANCO, and the situation room of Frontex;
33. Reiterates the need to avoid unnecessary duplication and to ensure coherence and effective coordination in action, all the more so given the current scarcity of resources; notes the different schools of thought as to the way of rationalising these multiple monitoring capacities, some based on the idea of a central 'one-stop shop', and others favouring better interlinking of the specialised facilities;
34. Takes the view that the wide array of potential crises, from floods to CBRN attacks or disasters, inevitably requires a wide spectrum of specialised services and networks, the merging of which would not necessarily lead to greater efficiency; considers, at the same time, that all specialised services at EU level should be integrated within a single secured information system, and invites the Commission and the Vice-President/High Representative to work on strengthening the ARGUS internal coordination platform;
35. Highlights the need for political coordination in the Council in cases of severe crises; notes the review of the EU Emergency and Crisis Coordination Arrangements (CCA), and welcomes the agreement within the Council on the new CCA conceptual framework, making use of regular Council procedures, and notably of COREPER, instead of ad hoc structures; stresses that responding at EU political level in a coherent, efficient and timely way to crises of such a scale and nature requires only one single set of arrangements; considers, therefore, that the new CCA should also support the solidarity clause;
36. Encourages efforts to rationalise and better integrate the plethora of web-based platforms for communication and information-sharing on emergencies, including the CCA webpage, ARGUS, the Common Emergency Communication and Information System (CECIS) and the Health Emergency & Diseases Information System (HEDIS), in order to allow an uninterrupted, free and effective flow of information across sectoral and institutional boundaries; notes the decision taken within the Council to reinforce the CCA webpage in order to use it as the future web platform for crisis situations requiring political coordination at EU level;
37. Urges the development of common situation awareness, which is essential in dealing with major multisector crises, when rapid and comprehensive updates need to be provided to the political authorities; welcomes the focus of the CCA review on developing an Integrated Situational Awareness and Analysis (ISAA) for EU institutions and Member States, and calls on the Council to ensure timely implementation; points out that common situation awareness is hardly possible without a culture of information-sharing, and that the development of such a culture is hardly possible without a clear division of roles;

38. Welcomes the planned upgrade of the Monitoring and Information Centre to create a European Emergency Response Centre, stressing that this should form one of the pillars of the interconnected EU rapid response system; takes the view that the coordination responsibility for multisector crises needs to be established on a case-by-case basis, in accordance with the 'centre of gravity' principle;
39. Points out that, in the current global environment where interdependencies are multiplying, major crises on a scale that would justify the triggering of the solidarity clause are likely to be multidimensional and have an international dimension, with respect to third-country nationals affected by them or to international action needed to respond to them; stresses the important role to be played by the EEAS in such cases;
40. Invites the Member States to enhance their capacities for providing and receiving assistance, as well as to exchange best practices on ways to streamline their national crisis coordination procedures and the interaction of their national crisis coordination centres with the EU; takes the view that the planning and conduct of appropriate EU-wide crisis response exercises, involving national crisis response structures and the appropriate EU structures, should also be considered;
41. Considers it essential to create the necessary procedural and organisational links between relevant Member State services, in order to ensure the proper functioning of the solidarity clause following its activation;
42. Stresses that any decision-making process in Council following a request for assistance under the solidarity clause must not be detrimental to EU reactivity, and that crisis response through the existing mechanisms, such as the Civil Protection Mechanism, must be able to start immediately, irrespective of any such political decision; points out the fact that the use of military assets to support civil protection operations is already possible on operational level without the activation of the solidarity clause, as evidenced by the successful cooperation between the Commission and the EU Military Staff on past operations in Pakistan or Libya;
43. Highlights the need to detail the democratic procedure to be applied when the solidarity clause is invoked, which should also ensure accountability for decisions taken and include the proper involvement of the national parliaments and of the European Parliament; stresses the importance of preventing any disproportionate use of the clause at the expense of fundamental rights;
44. Notes that the European Parliament and the Council, as the EU legislators and budgetary authorities, should be kept informed of the situation 'on the ground' in the case of a disaster or attack that triggers the solidarity clause, as well as of its origins and possible consequences, so that a thorough and unbiased assessment based on up-to-date and concrete information can be carried out for future reference;
45. Recalls that the solidarity clause requires the European Council to regularly assess the threats facing the Union; takes the view that such assessments need to be coordinated with NATO and should be carried out on at least two distinct levels, i.e. on a longer-term basis in the European Council, in a process which should also feed strategic thinking to be reflected in future updates of the European Security Strategy and the Internal Security Strategy, and also through more frequent comprehensive overviews of current threats;

46. Considers that threat assessments must be complemented with risk assessments analysing threats in the light of existing vulnerabilities and thus identifying the most pressing capability gaps to be addressed; recalls that within the implementation of the Internal Security Strategy, the EU should establish by 2014 a coherent risk management policy linking threat and risk assessments to decision-making; recalls also that by the end of 2012 the Commission should prepare, on the basis of national risk analyses, a cross-sectoral overview of the major natural and man-made risks that the EU may face in the future; encourages the Member States to share their national risk assessments and risk management plans, to enable a joint appraisal to be made of the situation;
47. Stresses that the resulting joint multihazard assessments need to use the capacities of the EU Intelligence Analysis Centre, building on shared intelligence and integrating inputs from all EU bodies involved in threat and risk assessment, such as the relevant Commission departments (including DG HOME, DG ECHO and DG SANCO) and Union agencies (Europol, Frontex, the European Centre for Disease Prevention and Control and others);

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48. Instructs its President to forward this resolution to the Vice-President/High Representative, the Council, the Commission, the parliaments of the Member States, the NATO Parliamentary Assembly and the Secretary-General of NATO.