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**IS THE UNITED NATIONS SECURITY COUNCIL'S PRACTICE OF AUTHORISING CSDP'S MILITARY OPERATIONS INCOMPATIBLE WITH THE EU'S AMBITION TO BECOME A MAJOR PLAYER IN THE INTERNATIONAL ARENA? THE DEMAND FOR A NEW LEGITIMACY FOR CSDP DEPLOYMENTS.**

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## Introduction

The United Nations Security Council (UNSC) is authorised to take action in accordance with international law, including resorting to the use of armed force, in order to address threats to international peace and security (Article 42 of the United Nations Charter). The collaboration between the European Union (EU) and the relevant parties has played a pivotal role in upholding world peace and security and this partnership is merely one facet of the various modes of cooperation established between these two entities. As concerns the EU, both military operations and civilian missions are carried out specifically within the Common Security and Defence Policy (CSDP) framework for EU external action (Title V, Lisbon Treaty). Despite an existing and solid legal framework, which establishes that to launch missions and operations the approval of all Member States through a Council Decision is required, the EU has primarily operated within the framework of the UNSC to obtain the requisite legitimacy and reaffirm the Union's attachment to international law and multilateralism (Klocker, 2021; EEAS, 2021). This strategy effectively gives non-EU states veto power over EU military deployments during a period of escalating geopolitical tension, which may make it incompatible with the goal of increased strategic autonomy for Europe.

Although the EU is thought to be more likely to utilise normative and soft power, such as sanctions, trade, or diplomacy, in the long term, it is dealing with the development of 'hard power' tools and, most significantly, with the blend of soft and hard. Combining these factors gives the EU the chance to maximise its independence and effectively defend its ideals and global interests (Anghel, Immenkamp, Lazarou, Saulnier, Alex Wilson, 2020). The EU's ongoing development as a military-security player also reflects the CSDP deployment's shifting focus. In the past, indeed, missions used to be aimed at peacekeeping objectives, while, geostrategic factors, such as safeguarding European trade routes (EUNAVFOR Atalanta), have increasingly motivated more recent ones. The ongoing necessity, substantiated by practical application, for a resolution granting authorisation to the EU to utilise the military capabilities of its constituent member states has sparked debates regarding the potential for an alternative and complementary basis for legitimacy for its CSDP deployments. This InfoFlash tries to accomplish three different objectives. Firstly, the reasons why the EU has constantly looked for approval from the UN when acting within the CSDP framework. Secondly, the need to change such a practice, citing Operation Sophia's example that is considered as a breaking point. Finally, it will deal with some theories that seek to find a new source of legitimacy for EU military operations.

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**Does the EU need the UNSC's authorisation?** There are unquestionably valid reasons why the EU waits for UN approval before acting using the armed forces of its Member States. First, it has significant normative relevance for other members of the international community. The authorisation proves that the EU acts in response to a threat to international peace and security and not to pursue its own interests (Legrand, 2023; Theodosopoulos, 2020). The UN is often regarded as the epitome of international legal norms and serves as the arbiter for legitimate interventions (Theodosopoulos, 2020). Secondly, because member states hold different strategic ideologies and perspectives on when to employ force, conflicts may develop over whether military action is justified in certain crisis circumstances. Hence, the EU itself may benefit from a UN mandate: a Security Council resolution can be a strong justification for military action, assuring the more hesitant parties and aiding in the beginning of an operation. Thirdly, a UNSC resolution enables EU member states to access UN tools and resources they would not otherwise have access to (Theodosopoulos, 2020).

Since 2003, almost every military deployment under the CSDP has been covered by a UN authorisation. Among the most famous military missions led by the EU there is the ARTEMIS/DRC, which required French-led European soldiers to ameliorate the humanitarian situation in Bunia, in the Democratic Republic of the Congo, and stabilise security (UNSC Res 1484 (2003)). In 2004, the ALTHEA/BiH operation was approved by UNSCR 1551 and carried out in accordance with the NATO decision. In compliance with the UNSCR 1671 (2006) mandate, EUFOR RD Congo sought to assist MONUC during the electoral process. Protecting civilians, facilitating humanitarian relief delivery and ensuring that UN personnel and infrastructure safety were all part of the UNSCR's mandate for EUFOR Tchad/RCA (UNSC Res 1778 (2007)). Finally, Operation Atalanta of EUNAVFOR Somalia aimed to suppress acts of piracy: it was the largest and broadest deployment of international navies for a single operation and followed UNSCR 1816 (European Union Council issued Resolution 2008/851/CFSP). The EU's military role was expanded because of the cooperation in broader counter-piracy operations that involved military, diplomatic, non-governmental organisations, and other relevant law enforcement institutions. The US, Russia, and China were just a few countries that contributed troops to this operation, many of which had never previously worked together. Overall, Operation Atalanta was considered a success, and evidence indicates it has had a long-lasting effect. (Geiß and Petrig, 2011)

### **CSDP goals and the need to change such an obsolete praxis**

However, there is a significant example of a situation where the Council launched a military operation without first receiving UNSC approval. In its decision from 18 May 2015, it stated that the Sophia Operation would be conducted in compliance with 'any Security Council Resolution' and that it would adhere to several international conventions, including the UN Convention on the Law of the Sea (UNCLOS). As a result, the SC was compelled to address a military operation that had already been established by the EU (the European Union Council issued Resolution 2015/778/CFSP). As in most international fora where States are the lawmakers and at the same time no judge exists, there have been no consequences for the EU: a UNSCR was quickly adopted in the aftermath of the operation's inception (UNSC Res 2240, 2015) (Estrada-Cañamares, 2016).

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There are two main reasons why this practice should be overcome and are deeply interconnected. Firstly, because it inevitably results in lessened strategic autonomy, the EU's de facto reliance on the UNSC's approval to deploy CSDP operations undermines its geopolitical goals. Since the CSDP's inception in 1999, European policymakers have come to appreciate the hard power technique such as the use of military force as an important tool in the EU's arsenal of strategies for foreign policy engagements. The Global Strategy and the Council Conclusions on Security and Defence from November 2016 reiterated the significance of hard power as a crucial component of the Union's foreign, security, and defence policy and recognised the improvement of its ability to respond to external crises as a strategic objective (Council of the European Union, 2016). Moreover, a more recent process to enable and assist the formation of a shared European security and defence culture was started by EU leaders in June 2020. The "EU Strategic Compass", which was adopted by the Council in March 2022 " aims to provide the EU with an ambitious action plan to strengthen the EU's security and defence policy by 2030." (Council of European Union, 2022).

Secondly, the governments of individual states may have different values, ideologies, and interests from the EU. As was already mentioned, the SC's approval gives the more hesitant parties some assurance. However, it also gives SC members the power to veto or override the decision, preventing the Union (which is only represented by France in the UNSC) from using its military power. The Union wants to avoid this consequence, especially considering its ongoing efforts to gradually broaden its sphere of influence (Theodosopoulos, 2020). Even though CSDP military deployments have historically occurred in the Union's near vicinity, specifically the Western Balkans, the Mediterranean, and Africa, new geopolitical circumstances that may necessitate a strong response from the EU have recently developed. For instance, Russia has significant reasons to restrict (and cast the veto) any European military presence that would jeopardise its commercial, military, or political positions in the situation involving Ukraine.

**Looking for a new Legitimacy for SCDP Deployment.** Finding a new legal foundation and legitimacy for military CSDP deployments without regard to a Chapter VII resolution will be a crucial part of the EU's ambition for greater geopolitical importance in a rules-based international system. Europe and the former High Representative of the EU for External Affairs and Security Policy, Federica Mogherini, have advanced the vague idea of 'principled pragmatism', which is the idea that the Union will act independently when necessary and multilaterally when possible (Council of the European Union, 2016 and 2022). Consequently, it is crucial to operationalise and give substance to 'principled pragmatism' as a guiding principle of EU foreign and security policy, given the rising acknowledgement of the relevance of hard power in global affairs at the EU level (Council of the European Union, 2016).

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What, then might serve as a substitute for UN authorisation as a legitimating basis for CSDP deployments? There is no one answer to that question because several authors have attempted to develop various ideas. The first focuses on the purpose and rationale behind a military intervention. To maintain and advance European principles like human rights, democracy, and the rule of law, the EU may be justified in using armed force in such a situation, especially when it threatens EU or global stability. The goal is not to represent universal ideals but to use military force to defend those that reflect European principles and those of its Member States. Indeed, this is one of the arguments employed by those who support pro-EU military intervention. The second conceptualisation concentrates on meeting particular procedural requirements, or the who and how of deciding to use force. One option would be to rely on external "deliberative legitimacy". According to this paradigm, using force is acceptable if it is decided upon peacefully through a process of rational debate in which all parties participate. The Union may seek legitimacy through rational agreement in more exclusive and deliberative forums. However, such ideal circumstances are rather uncommon in practice. Influential nations are part of important global multilateral institutions, but they have little interest in trading power politics for genuine deliberation. When it comes to safeguarding the national interest, power, and autonomy answer to no one (Bjola, 2005). The third conceptualisation which is 'output legitimacy,' is based on using the armed force's effectiveness in achieving specific goals. The efficacy of CSDP deployments would be assessed ex post facto depending on their performance along this parameter. Such evaluations are only sometimes simple since the objectives they seek to achieve can be unclear or unambitious, or they might be under-resourced in relation to their mission and operating environment (Peen Rodt, 2017). Finally, power itself is a crucial additional source of legitimacy that transcends the dimensions mentioned above. Power may and does establish its own legitimacy. Therefore, the EU's strength as a geopolitical actor is intimately related to its legitimacy as a security actor. Member states must be unified when deliberating on CSDP deployments for the Union to be guided by a common purpose. They must continue to pursue strategic autonomy in order to have the tools necessary to translate the will of their constituents into effective, independent action (Theodosopoulos, 2020).

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## Conclusion

It might not seem encouraging for large groups of governments to be allowed to develop their military activities and strategies without authorisation in a global context where multilateralism and the pursuit of peace should rule. However, history tells us that over the years, numerous governments have regularly employed military action in violation of the UN Charter principles by avoiding the inconvenience of getting a UNSC authorisation, for example, by claiming to be acting in self-defence or protecting their citizens abroad. And the Five-Permanent members are not blameless. As long as external players, especially strategic adversaries, have an effective veto power over CSDP deployments and they act outside the UN framework when practical, the sovereign pursuit of European geopolitical objectives will be obstructed. Consequently, as previously shown, the Union's de facto reliance on the non-EU P5's approval will become problematic for its strategic autonomy as the likelihood of continued paralysis in the UNSC increases. The Union cannot support unilateralism or hypocritically use international law and standards for its own ends because doing so would go against the Union's founding values and eventually defeat its goals. The research for a new legal basis is, therefore, fundamental although more complex, considering its current ambitions and aspirations. However, it must be investigated mainly into legal frameworks, European treaties and in an international setting where the EU fearlessly imposes itself. It cannot wait for the UNSC to consent before it acts independently since the EU is the only multilateral entity that can bring about such a change by 2030.

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