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Reforming Europe's Defence: Amending the Treaties for a European Defence Union

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RESEARCH REPORT

1. Introduction

The European Union is based on the rule of law. Every action taken by the EU is founded on treaties that have been approved voluntarily and democratically by all EU member countries.¹ The last major EU treaty reform occurred in 2007,² resulting in the adoption of the Lisbon Treaty, which changed many aspects of the Union's technical functioning.³ Nearly twenty years later, a new comprehensive reform is under discussion, following a proposal approved by the European Parliament in November 2023.⁴

An ambitious chapter of this reform proposal touches the field of the EU Common Security and Defence Policy (CSDP), aiming to incorporate it into the area of shared competences and calling for the establishment of a European Defence Union. Among the many changes this would entail, two key measures would be: first, the placement of EU-led military units under a common operational command; and second, the financing of joint armaments through an EU budget subject to parliamentary control. The overall goal would consist in *enabling the Union to defend Member States (MSs) against threats.*⁵

This paper aims to analyse in detail the 2023 Treaty Reform Proposal's vision for a European Defence Union, assessing its institutional innovations, notably the shift to Qualified Majority Voting, the expansion of European Parliament powers, and the establishment of a permanent EU rapid deployment force. It also evaluates the legal, political, and constitutional obstacles that hinder its realisation. Ultimately, the paper asks whether such a profound transformation could materialise under the pressure of current geopolitical developments, including Russia's war of aggression against Ukraine and the growing exposure of the Union to hybrid threats, or whether it remains too early for such an epochal change.

2. The project for a European Defence Union (EDU)

The idea of a European Defence Union (EDU) is nothing new to the European integration debate. It was first proposed as early as 1952, when the founding members of the European Communities drafted the Treaty establishing the European Defence Community (EDC), also known as the Treaty of Paris. This ambitious plan aimed to create a unified European defence force with a shared budget and joint procurement, operating as an autonomous European pillar within NATO. The treaty was signed on 27 May 1952 by Belgium, Luxembourg, the Netherlands, France, Italy, and West Germany, and it even allowed for future members to join. However, despite initial enthusiasm, the project stalled when the French National Assembly indefinitely postponed ratification in 1954, preventing the treaty from entering into force.⁶

¹ European Union, 'Founding agreements' (EU Official Website) https://european-union.europa.eu/principles-countries-history/principles-and-values/founding-agreements_en.

² The Lisbon Treaty (signed in 2007 and entered into force in 2009) was the last comprehensive reform, however, subsequent targeted amendments were adopted after 2009, such as the 2011 European Council Decision, amending Article 136 TFEU on the euro area stability mechanism and the 2012 Treaty of Accession of Croatia.

³ Eleonora Vasques, 'EU Parliament's slim majority triggers convention on treaties reform' (Euractiv, 22 November 2023) <https://www.euractiv.com/news/eu-parliaments-slim-majority-triggers-convention-on-treaties-reform-centre-right-divided/>.

⁴ The process is now awaiting the next step: the European Council's decision on whether to open the reform convention as provided for in Article 48 TEU. European Parliament, "Proposals of the European Parliament for the amendment of the Treaties" (European Parliament resolution of 22 November 2023)

⁵ P9TA(2023)0427; Pag. 26, Amendment 51.

⁶ Richard Nelson (comp), 'Creation of European Defence Community' (The Guardian, 26 February 2025) <https://www.theguardian.com/world/2025/feb/26/the-plan-for-a-european-army-within-nato-1952>; Albrecht, 'We Need a European Defense Union – Now!'; European Parliament, 'Ad Hoc Assembly (1952–1954)' (Historical Archives, n.d.) <https://historicalarchives.europarl.europa.eu/home/fonds/parliamentary-activities/ad-hoc-assembly.html>.

Although never practically implemented, the idea of a European Defence Union (EDU) remained dormant for decades. It was explicitly mentioned another time by the EU Parliament in its 2016 resolution,⁷ where the establishment of a Defence Union was described as a means to guarantee security and deliver democracy through revision of the Common Security and Defence Policy.⁸ Now, after almost 10 years, the European Parliament is back on the topic, and this time with a stronger instrument at its disposal: a legislative initiative resolution under Article 48(2) TEU. Unlike the 2016 resolution, which was purely political,⁹ this act has a procedural character, as it contains formal proposals for the revision of the EU Treaties. While it is not legally binding in itself, it can trigger the Treaty revision process by requesting the European Council to convene a Convention to discuss potential reforms concerning the Union's governance, competences, and external action.¹⁰

The 2023 EP Treaty Reform Proposal brings forward a long comprehensive set of amendments to the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU), modifying the EU's institutional structure. In the field of security and defence, it suggests a fundamental transformation of the EU's Common Security and Defence Policy into a shared defence competence between the Union and MSs (amendment to Article 4 TFEU).¹¹

EU Security and Defence (CSDP) represent an integral part of the EU Common Foreign and Security Policy (CFSP), which is, as of today, an area of competence of inter-Governmental nature,¹² meaning that MSs retain the main authority, taking decisions in the Council usually by unanimity. The Commission and European Parliament play only minor roles, and the Court of Justice of the EU (CJEU) has very limited jurisdiction. Transferring this policy area into the field of shared competences,¹³ as suggested by the EP proposal under examination, would entail a legal shift,¹⁴ empowering the Union to adopt binding legislation and take executive measures in the field of defence. Decision-making would partially move from unanimity to qualified majority voting in the Council, while the European Parliament would gain co-decision and oversight powers, thereby expanding its currently limited role.¹⁵

⁷ European Parliament, 'European Defence Union: European Parliament resolution of 22 November 2016 on the European Defence Union (2016/2052(INI))' [2018] OJ C 224/18; For clarity, this resolution is a non-binding political instrument adopted under the Parliament's right of initiative (Article 225 TFEU), and thus differs from the November 2023 resolution on the amendment of the Treaties (2022/2051(INL)), which, although also not binding, has a procedural effect under Article 48(2) TEU as it can formally trigger the Treaty revision process.

⁸ Ibid, pg. 4-5.

⁹ European Parliament, 'European Parliament's scrutiny of the European Council: The use of Parliament resolutions' (Briefing, 27 June 2024) [https://www.europarl.europa.eu/thinktank/en/document/EPRI_BRI\(2024\)757839](https://www.europarl.europa.eu/thinktank/en/document/EPRI_BRI(2024)757839).

¹⁰ Union of European Federalists, 'EL76 | Parliament activates the Treaty Revision procedure: the significance of the vote and Europe's priorities' (European Letter No 76, November 2023) <https://federalists.eu/federalist-library/parliament-activates-the-treaty-revision-procedure-the-significance-of-the-vote-and-europes-priorities/#:~:text=The%20vote%20on%2022%20November,for%20an%20EU%20fiscal%20capacity>; European Parliament, 'EU Treaties reform: MEPs submit proposals to strengthen EU capacity to act' (Press Release, 25 October 2023) <https://www.europarl.europa.eu/news/en/press-room/20231023IPR08163/eu-treaties-reform-meeps-submit-proposals-to-strengthen-eu-capacity-to-act>.

¹¹ European Parliament, 'Proposals for the amendment of the Treaties' (2023) P9_TA(2023)0427; Pg. 25, Amendment 73.

¹² Distinguishing it from traditional Community competences (e.g. single market) where the supranational model applies: the Commission holds the right of initiative, the European Parliament co-legislates on an equal footing with the Council, decisions are normally taken by qualified majority voting, and the Court of Justice ensures the uniform enforcement of EU law. European Union, 'Common Foreign and Security Policy' (EUR-Lex, n.d.) <https://eur-lex.europa.eu/EN/legal-content/summary/common-foreign-and-security-policy.html>.

¹³ An Area in which either the EU or Member States can adopt legal acts. To the extent that the EU exercises its shared competence, the Member States are not free to exercise their competence, but may do so again once the EU ceases to exercise the competence. Foreign & Commonwealth Office, 'EU law and the balance of competences: A short guide and glossary' (Guidance, 12 December 2012; updated 21 March 2013) <https://www.gov.uk/guidance/eu-law-and-the-balance-of-competences-a-short-guide-and-glossary>.

¹⁴ Moving Union defence from the intergovernmental framework of the TUE to the competence structure of the TFEU.

¹⁵ Under Article 36 TEU.

The common security and defence policy would gain a broadened space, explicitly revised to enable the Union to defend MSs against threats. The proposal introduces several core innovations: it establishes a Defence Union composed of EU military units and a permanent Rapid Deployment Capacity under Union operational command; it creates a dedicated Union budget for joint procurement and armament development, subject to parliamentary co-decision and scrutiny; it adjusts and strengthens the competences of the European Defence Agency (EDA);¹⁶ and it preserves clauses protecting national traditions of neutrality and NATO membership, ensuring that the deployment of national armed forces would remain under national control.¹⁷

The proposal specifically aims to modify Article 42(7) of the TEU. As of today, the article already establishes the mutual assistance clause, stipulating that: if a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power [...].¹⁸ The amendment at stake aims at adding strength to the existing clause by stating that: If a Member State is the victim of aggression, the Defence Union and all Member States shall have towards it an obligation of aid and assistance [...] an armed attack on one Member State shall be considered to be an attack on all Member States. The underlying idea is to align the article with Article 5 of NATO, taking into consideration the concept of an EDU existing as an entity besides MSs.¹⁹

Regarding the new mandate of the European Defence Agency, the proposal calls for a fundamental shift, passing from a supportive, advisory role toward a more centralised and operationally decisive defence structure at the EU level. Amendment 52 of the EP proposal adds *“the Union and the Member States”* as jointly responsible for progressively improving military capabilities, rather than only the MSs. It replaces softer obligations, such as merely *promoting* measures or *contributing to identifying and, where appropriate, implementing* them, with stronger, more directive language: **the Agency must implement measures, procure armaments on behalf of the Union and its Member States, and take any measure needed to reinforce the defence industrial and technological base.**²⁰ The amended text also removes the Agency’s role in *assisting the Council in evaluating* capabilities and instead assigns it the more direct responsibility to *evaluate the improvement of military capabilities.*²¹

Finally, in the frame of the creation of a new Defence Union, the EU Parliament also proposes the introduction of a new emergency clause at the Treaty level.²² Amendment n. 186 suggests the introduction of a new paragraph 1 to article 222 TFEU, establishing that in the event of an emergency affecting the European Union or one or more MSs, the European Parliament and the Council may grant the Commission extraordinary powers, including those to enable it to mobilise all necessary instruments. For an emergency to be declared, the European Parliament shall act by a majority of its members and the Council shall act by a qualified majority, on a proposal from the European Parliament or the Commission. That decision, by

¹⁶ European Parliament, ‘Proposals for the amendment of the Treaties’ (2023) P9_TA(2023)0427; Pg. 29, Amendment 58.

¹⁷ Ibid, pg. 4.

¹⁸ Article 42, ph 7, subph. 1, TEU.

¹⁹ European Parliament, ‘Proposals for the amendment of the Treaties’ (2023) P9_TA(2023)0427; pg. 28, Amendment 55.

²⁰ Ibid pg. 26, Am. 52.

²¹ Ibid pg. 26, Am. 52.

²² Ibid pg. 73, Am. 186

which an emergency is declared, and extraordinary powers are granted to the Commission, shall define the scope of the powers, the detailed governance arrangements and the period during which they apply. However, the European Parliament or the Council, acting by a simple majority, may revoke, review or renew the decision at any time.

3. Reforming Decision-Making Rules

As previously discussed, common foreign and security policy (CFSP) represents an area of EU competence where decisions are, as of today, taken by unanimity by the Council of the European Union, with each Member State being equipped with veto power.²³ This being the general rule, MSs can also exercise the so-called "constructive abstention"²⁴: they can refrain from the decision without blocking the adoption of it, and they can do this by qualifying their abstention by a formal declaration. In this way, they will not block the will of the wider majority of the Council without being obliged to apply the decision for themselves. In a spirit of solidarity, the decision will still commit the Union as a whole, and abstaining Members will have to agree to avoid any activity that might conflict with the Union's action under that decision.²⁵

Even if this framework attempts to be as balanced as possible, in practice, the Commission,²⁶ Parliament,²⁷ and MSs to various extents, all recognised the unanimity requirement often holding the EU back in pursuing its targets in CFSP matters. Indeed, finalising a decision in foreign policy at the EU level remains quite time-consuming, due to the lengthy negotiations necessary to achieve a unanimous compromise, in many circumstances, almost resulting in a paralysis of the decision-making process. For this reason, the 2023 proposal for Treaty reform strongly advocates for a significant departure from unanimity towards Qualified Majority Voting (QMV) in CFSP decision-making.²⁸

The most substantial change is outlined in Amendment 45 of the proposal, which suggests revising Article 24(1) TEU to allow the European Council and the Council to define and implement the CFSP by qualified majority voting rather than unanimity, after obtaining the consent of the European Parliament. This major shift would operate through a new institutional balance, in which decisions relating to CFSP would be adopted by the Council acting by a qualified majority on a proposal from the Union Secretary for Foreign Affairs and Security Policy or an initiative from a Member State, after obtaining the consent of the European Parliament.²⁹ The amendment also removes the previous limitations on the jurisdiction of the Court of

²³ Article 31 of the Treaty on European Union (TEU) governs the conditions for such decisions. Article 31(4) TEU establishes the rule according to which decisions with military or defence implications must always be taken unanimously.

²⁴ Provided for by art. 31(1) EU. This would be deleted by Amendment 49 of the proposal, since it would become unnecessary.

²⁵ Art. 31(3) TEU also provides for the possibility of shifting from unanimity to qualified majority voting through the so-called passerelle clauses, however this mechanism cannot be used in the area of defence and military intervention (as provided for by Article 31(4) TEU). European Union, 'Passerelle clauses' (EUR-Lex, n.d.) <https://eur-lex.europa.eu/EN/legal-content/glossary/passerelle-clauses.html>.

²⁶ European Commission, 'Commission prepares for pre-enlargement reforms and policy reviews' (Press Release, 20 March 2024) https://ec.europa.eu/commission/presscorner/detail/en/ip_24_1568.

²⁷ The proposal under analysis itself shows how the Parliament stand on the matter; Union of European Federalists, 'PR | UEF welcomes European Parliament's call for a genuine European Defence Union' (Press Release, 10 October 2025) <https://federalists.eu/pr-uef-welcomes-european-parliaments-call-for-a-genuine-european-defence-union/>.

²⁸ European Parliament, 'Proposals for the amendment of the Treaties' (2023) P9_TA(2023)0427; pg.2 - Institutional Reforms: the proposal demands the strengthening of the Union's capacity to act by considerably increasing the number of areas where actions are decided by qualified majority voting (QMV) and through the ordinary legislative procedure (OLP).

²⁹ Ibid, further specified at pg. 27 by amendment 53.

Justice of the EU in CFSP matters, thereby expanding judicial oversight in an area traditionally excluded from judicial review.

Among other amendments worth of mention on the topic of CFSP voting procedures, there are two more that stand out. First, Amendment 54³⁰ stipulates that even decisions on the initiation of missions shall be adopted by the Council acting by a qualified majority. Second, Amendment 60,³¹ providing that even decisions and recommendations within the framework of permanent structured cooperation (PESCO) should be adopted by a qualified majority of participating MSs, rather than unanimously. The envisaged reforms maintain, however, a crucial exception for decisions authorising military operations with an executive mandate. These types of decisions would indeed remain outside the QMV,³² preserving unanimity where MSs' most sensitive sovereign prerogatives are directly engaged.

Overall, the EU institutions' roles would face a change in this new framework. The European Parliament would gain consent powers over military missions, increasing its democratic legitimacy, while the Council would face a limitation of its intergovernmental control. The Commission would also acquire extraordinary powers in crises (amended Article 222 TFEU), including the possibility to "mobilise all necessary instruments". This represents a new architecture that would transform the Common Security and Defence Policy (CSDP) of the Union, from an intergovernmental domain into a partially supranational one, a total constitutional shift in EU defence governance. QMV could finally push EU Member States to view foreign-policy challenges more from a common European perspective than from 27 national ones.³³

4. Obstacles and criticism to a European Defence Union and institutional reform

Despite the cross-party consensus on the need to reform the Treaties in the field of defence and to strengthen a unified European defence, the EP's November 2023 Proposal has not taken long to generate certain criticisms and concerns within the EU academic community.

A first concern of constitutional nature arises from the fact that the proposal leaves Article 4(2) TEU³⁴ untouched. This treaty provision safeguards MSs' national security and territorial defence and is, as of today, widely interpreted as a structural limit on transferring defence competences to the Union. If the proposal aims to create an active EU military organisation and expand EU-level operational command, while leaving this provision completely intact, a potential contradiction emerges: the Union's new military ambitions would be in contrast with the textual guarantee of Member State prerogatives. This tension suggests that a genuine shift towards integrated EU military structures would require revising Article 4(2) TEU, which the

³⁰ Modifying art. 42 TEU adding a final subparagraph.

³¹ Modifying art. 46 ph. 6 TEU.

³² European Parliament, 'Proposals for the amendment of the Treaties' (2023) P9_TA(2023)0427; pg.4 (*The Parliament Reiterates its call for decisions on sanctions, interim steps in the enlargement process and other foreign policy decisions to be taken by QMV; underlines that the proposals provide for an exception to this principle for decisions authorising military missions or operations with executive mandate.*

³³ Novak N., "Qualified Majority Voting in EU Foreign Policy: Make it So", Wilfried Martens Centre, Policy Paper, 2021. Pg. 3

³⁴ The Union [...] shall respect their (the Member States) essential State functions, including ensuring the territorial integrity of the State, maintaining law and order

³⁴ and safeguarding national security. In particular, national security remains the sole responsibility of each Member State.

the Parliament's proposal avoids. It is, however, to be taken into consideration that respecting national tasks does not prevent the EU from executing additional functions that do not conflict with national prerogatives.³⁵ The solution would therefore lie, as often is the case, into a question of finding an appropriate balance.

Another provocative line of argument has been put forward by critics regarding the topic of QMV change for CFSP and CSDP matters,³⁶ particularly the neutralisation of the *emergency brake*, an instrument currently established by art. 31(2) TEU. Under this article, during a decision-making procedure, any Member State may *pull the emergency brake* and refer a matter of vital national interest to the European Council, in order to choose on the matter by unanimity, in a space where MSs' will cannot be overruled. By contrast, if adopted the 2023 proposal would place the European Council in a position to deliberate and decide by QMV, meaning that the current existing possibility for MSs to prevent a decision from being adopted against their will would essentially disappear. This initiative, added to the total abolishment of the constructive abstention mechanism proposed by amendment 49, would mean, according to the supporters of this point, substantially losing a safeguard of sovereignty for MSs. The centrality of consensus in the European Council decision making would eventually fade, with a new Senate-like role of this institution and a push of the system towards majoritarianism rather than full unity in sensitive domains.³⁷

Supporters of unanimity decision-making in defence further argue that, despite its drawbacks, it offers important advantages. First of all, when all MSs back a decision in such a sensitive field, the measure gains effectiveness, reach, and credibility. Indeed, while unanimity may slow decision-making, it ensures maximum engagement and coherent implementation across the Union, preserving EU unity.³⁸

Finally, perhaps the most substantial obstacle arises when it comes to MS's political will. According to the most recent available data,³⁹ 77% of Europeans are in favour of a common defence and security policy among EU countries, yet EU MSs' governments are still quite reluctant to give up such considerable sovereign power in defence matters to the higher EU level. Costs of transferring sovereignty differ across MSs depending on their stability and strength of institutions.⁴⁰ Moreover, fragmentation across the EU on defence priorities and strategies makes it even more difficult.⁴¹ Governments also often claim they cannot fully rely on their partners, fearing they might be left alone if others withdraw from an operation, or conversely, be blocked from acting if another partner refuses to join. Yet, decades of NATO and EU missions show that these fears are largely unfounded.⁴²

³⁵ Karsten Meijer and Arjen Klein, 'A Proposal Towards a European Defence Union: Legal Implications of the European Parliaments' Proposal for Treaty Reform in the Area of Defence' (Verfassungsblog, 23 April 2024) <https://verfassungsblog.de/towards-a-european-defence-union/>. Ph. titled "QMV in CFSP and CSDP".

³⁶ Ibid, ph. titled "QMV in CFSP and CSDP".

³⁷ Ibid, ph. titled "QMV in CFSP and CSDP".

³⁸ Qualified majority voting in EU foreign policy: A cost of non-Europe report pg. 4-5.

³⁹ European Commission, 'Standard Eurobarometer 101 – Spring 2024' (European Union, 2024), https://europa.eu/eurobarometer/surveys/detail/3216?utm_source=chatgpt.com.

⁴⁰ Bocconi University, 'Policy Brief n.29 – Why do EU Countries Resist Sharing Sovereignty?' (10 October 2024) <https://iep.unibocconi.eu/publications/policy-briefs/policy-brief-n29-why-do-eu-countries-resist-sharing-sovereignty>.

⁴¹ For Germany, the topic above all implies collective defence in the East, while France is more into forward defense in Africa—what other Europeans would consider security and crisis management. Claudia Major, 'Credible EU Defense Means Rethinking Sovereignty' (Carnegie Europe, 15 June 2017), <https://carnegieendowment.org/europe/strategic-europe/2017/06/credible-eu-defense-means-rethinking-sovereignty?lang=en>.

⁴² Major, 'Credible EU Defense Means Rethinking Sovereignty'.

5. Conclusion

The EU has long lacked a genuine role in defence and deterrence, leaving these core security functions largely to NATO and national governments. Yet, today's geopolitical environment reveals that no Member State, regardless of size or military tradition, can individually address the challenges Europe faces. Strengthening EU defence requires governments to acknowledge a basic reality: most threats can only be effectively confronted through unified cooperation and a true institutional change within the EU.

A significant obstacle to this change, as seen, comes from an ideological attachment to a traditional and outdated understanding of sovereignty among many MSs. What matters is not the Union's ability to act effectively but the preservation of each state's "last word," even when this insistence on ultimate national control prevents the development of a shared European military or political capacity that could better address the very challenges they face.⁴³ This tension is clearly reflected in the debate over unanimity versus qualified majority voting in CSDP matters. While unanimity safeguards national prerogatives and ensures full political cohesion, it also risks paralysis when swift action is required. QMV, by contrast, would strengthen the Union's ability to respond to crises, while recalibrating the MSs' autonomy.

The future of European defence will finally depend on how the Union reconciles these competing interests and, even more importantly, on the political courage and sense of responsibility of MSs towards collective security.

⁴³Ibid.

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