

# All for one? EU's toothless mutual defence clause

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The annexation of Crimea by Russia reminded EU-Europe that armed aggression as a means of politics has not gone out of style – not even in Europe's closest neighbourhood. Especially in the Baltics and the EU's Eastern member states, the military activities of Russia have sparked old fears. Lithuania's President Dalia Gybauskaita used the occasion of the US Vice President's visit on March 19 to [express her worries](#): "We witness the use of brutal force to redraw the map of Europe [...] this is happening near the borders of Lithuania and is a direct threat to our security." Two weeks earlier she had, together with the Polish president, already called for an emergency consultation of NATO ambassadors under Article 4 of the NATO treaty. The clause is invoked if a member of the alliance feels threatened.

The current crisis has put the spotlight on a source of threat that already seemed forgotten in the European context: aggression against states on their own territory. The end of the Cold War appeared to make any interpretation of the European integration project as a traditional security alliance defending its own turf obsolete. Particularly since 9/11, the European Union and its member states have put emphasis on 'new' threat scenarios as spelled out in the [European Security Strategy from 2003](#). The document deemed "large-scale aggression against any Member State" as "improbable" and defined terrorism, proliferation of weapons of mass destruction, regional conflicts, state failure and organized crime as Europe's main threats. Correspondingly, the EU's security and defence policy has concentrated on crisis management operations in the wider European neighbourhood. Now, fundamental questions about the cornerstones of national security and defence are again being asked, not least in non-NATO member states, such as Finland and Sweden.

The renewed securitization of EU territory proper underlines the importance of mutual assistance agreements. Not just NATO, but also the EU has a clause in place, which specifically refers to cases in which one of the member states would fall victim to an armed attack. EU member states introduced the so called 'mutual defence clause' with the Lisbon Treaty as a carefully worded compromise. Since then, the clause has remained merely symbolic with little political, let alone operational, relevance. However, the current crisis raises the question whether the 'mutual defence clause' could receive new political or even practical significance in the development of Europe's common security and defence policy.

## **Article 42(7) TEU: Mutual Defence Clause**

If a Member State is the victim of an 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, in accordance with Article

51 of the UN Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States. Commitments and cooperation in this area shall be consistent with commitment under the NATO, which, for those States which are member of it, remains the foundation of their collective defence and the forum for its implementation.

So far, the practical relevance of the clause is limited. The dispute over Crimea has not necessarily made an armed attack against one of the EU member states more probable. In the unlikely event of military confrontation, the crucial question would be whether the victim of the aggression is a NATO member or not. For NATO members, the established common defence structures of the transatlantic alliance would have primacy – a fact that is clearly recognised in the EU's mutual defence clause. Nevertheless, the non-aligned EU states could also make a contribution to the joint defence efforts. It would, however, remain in their power to decide whether they would assist the victim by military or by other kinds of means. Many of the non-NATO EU member states cooperate closely with the alliance in joint operations, which would allow them to make a military contribution in a NATO-led assistance mission should they so choose.

In the case of an aggression against a non-NATO EU member state, it is more conceivable that the EU's defence clause would be triggered. Yet, in the absence of any detailed procedures for the implementation of the clause, the exact framework in which mutual assistance would take place remains unclear. The defence clause as such is purely intergovernmental and does not spell out any role for the EU's crisis management structures. Purely bilateral scenarios are possible, as is close cooperation between the EU and NATO. The EU's existing foreign policy and defence structures, such as the Political and Security Committee (PSC) and the crisis management and intelligence units in the European External Action Service (EEAS) and the European Commission, could also play a role. More detailed arrangements for the involvement of the Commission and the EEAS structures in crisis situations on EU territory were defined with regard to the more specific ['solidarity clause'](#) that can be invoked in case of terrorist attacks and natural or man-made disasters.

More relevant than the actual implementation of the 'mutual defence clause' might be its political message. Even though it does not affect their status of alignment, the clause is equally binding on all member states. As such, it sends a message to potential adversaries that an aggression or threat triggers a joint response from all EU member states. Already in the phase of political tension ahead of an actual aggression, the EU and its member states would most likely play a significant role at the political and diplomatic front. Sanctions are one element in the EU's external action toolbox, as the Crimean case demonstrates. EU partners could formally base their political and diplomatic assistance for the member state under aggression on the mutual defence clause in order to increase political pressure on the adversary.

Even though there is no imminent threat against any EU member state, the Crimean crisis shows that it might be worthwhile to breathe new life into the common defence commitments of the Union. This would also be in line with recent developments in the EU's security and defence policy. The [European Council on defence last](#)

[December](#) took a broad approach to European defence, addressing not only the crisis management dimension, but also the national defence of the member states. Concerned about the steady decline of defence budgets in most member states, the European Council called for closer European cooperation – for example by means of pooling and sharing – to develop and maintain crucial military capabilities. A credible mutual defence clause should be an integral part of such endeavours, as it would increase the level of trust between the member states and thus facilitate joint arrangements.

The Ukraine crisis might be a catalyst to transform the ‘mutual defence clause’ from a symbolic relict into a political tool. This would, however, require the member states to express their commitment to mutual assistance and to spell out the terms and procedures for its implementation. These steps remain difficult given the diverse security traditions of the member states. Even though Sweden and Finland have clearly expressed their commitment to the ‘mutual defence clause’ in the past, some non-aligned member states might still face a debate on the downsides of a de-facto breach of their status. At the same time, an implementation of the clause beyond a purely intergovernmental setting – with a role for EU crisis managements structures – would face opposition from the United Kingdom, as exemplified by their rejection of establishing an EU military headquarters. Thus, for the time being NATO remains the only game in town concerning traditional defence assistance. The annexation of Crimea by Russia reminded EU-Europe that armed aggression as a means of politics has not gone out of style – not even in Europe’s closest neighbourhood. Especially in the Baltics and the EU’s Eastern member states, the military activities of Russia have sparked old fears. Lithuania’s President Dalia Gybauskaita used the occasion of the US Vice President’s visit on March 19 to [express her worries](#): “We witness the use of brutal force to redraw the map of Europe [...] this is happening near the borders of Lithuania and is a direct threat to our security.” Two weeks earlier she had, together with the Polish president, already called for an emergency consultation of NATO ambassadors under Article 4 of the NATO treaty. The clause is invoked if a member of the alliance feels threatened.

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