Basic information

2012/2223(INI) INI - Own-initiative procedure	Procedure completed
EU's mutual defence and solidarity clauses: political and operational dimensions **Subject** 6.10.02 Common security and defence policy (CSDP); WEU, NATO 7.30.09 Public security	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
AFET Foreign Affairs	PAŞCU Ioan Mircea (S&D)	06/03/2012
	Shadow rapporteur GIANNAKOU Marietta (PPE) DUFF Andrew (ALDE) CRONBERG Tarja (Verts /ALE) VAN ORDEN Geoffrey (ECR) LÖSING Sabine (GUE/NGL)	

Committee for opinion	Rapporteur for opinion	Appointed
LIBE Civil Liberties, Justice and Home Affairs		
AFCO Constitutional Affairs (Associated committee)	DUFF Andrew (ALDE)	12/07/2012

European Commission

Commission DG	Commissioner
European External Action Service	ASHTON Catherine

Key events

Date	Event	Reference	Summary
13/09/2012	Committee referral announced in Parliament		

13/09/2012	Referral to associated committees announced in Parliament		
25/10/2012	Vote in committee		
31/10/2012	Committee report tabled for plenary	A7-0356/2012	Summary
21/11/2012	Debate in Parliament		
22/11/2012	Decision by Parliament	T7-0456/2012	Summary
22/11/2012	Results of vote in Parliament		
22/11/2012	End of procedure in Parliament		

Technical information	
Procedure reference	2012/2223(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	AFET/7/09829

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE492.839	09/08/2012	
Amendments tabled in committee		PE496.435	24/09/2012	
Committee opinion	AFCO	PE496.318	10/10/2012	
Committee opinion	LIBE	PE496.413	15/10/2012	
Committee report tabled for plenary, single reading		A7-0356/2012	31/10/2012	Summary
Text adopted by Parliament, single reading		T7-0456/2012	22/11/2012	Summary

European Commission

Document type	Reference	Date	Summary
Commission response to text adopted in plenary	SP(2013)110	02/04/2013	

EU's mutual defence and solidarity clauses: political and operational dimensions

2012/2223(INI) - 31/10/2012 - Committee report tabled for plenary, single reading

The Committee on Foreign Affairs adopted the own-initiative report by Ioan Mircea PAŞCU (S&D, RO) on the EU's mutual defence and solidarity clauses: political and operational dimensions.

Members recall that the framing of a common defence policy aims at a common defence is reinforcing the European identity and the strategic autonomy of the EU. They also recall that 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 cyber-attacks, increasingly have a cross-border nature and may easily overwhelm the capacities of any single Member State. They therefore urge 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.

They also make reference to Article 42(7) of the EU Treaty ('mutual defence clause' or 'mutual assistance clause') and Article 222 ('solidarity clause') of the Treaty on the functioning of the EU.

In particular, the report details the manner in which these clauses should be interpreted and enforced in terms of scope and capacities.

1) Mutual defence clause:

Scope: Members remind 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. And, 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. In this regard, **non-armed attacks, for instance cyber attacks** against critical infrastructure, can be launched with the aim of causing severe damage and disruption to a Member State.

Members also recall that the Treaty stipulates that commitments and cooperation in the area of mutual defence shall be consistent with commitments under NATO. However, they stress 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, as foreseen in the Berlin Plus agreement.

Capacities: Members emphasise the need for **European countries to possess credible military capabilities**. They therefore encourage 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. They consider 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.

Members reiterate their 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.

Structures and procedures: Members invite 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. Where collective action is taken to defend a Member State under attack, Members consider 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. They reiterate their call on the Member States to establish such a permanent capacity, building on the recently activated EU Operations Centre.

2) Solidarity clause: 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 to assist it and mobilise all the instruments at their disposal, including the **military resources made available by the Member States** (e.g. in the event of a terrorist threat). Members demand that account is taken of all sorts of threats, such as attacks in cyberspace, pandemics or energy shortages.

Member States are called upon to **invest in their own security and disaster response capabilities and not to excessively rely on the solidarity of others**. The solidarity clause is implemented only once it has been invoked at the **request of a Member State**.

Capacities and resources: Members stress 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. To this end, they point out the fundamental role of the Civil Protection Mechanism and express their support for the future mechanism which will replace it.

Members highlight the importance of ensuring that solidarity is underpinned by adequate **EU-level funding mechanisms** offering a sufficient degree of flexibility in emergencies. In this regard, they welcome the proposed increased level of cofinancing under the Civil Protection Mechanism, in particular for transport costs. They recall that the Solidarity Fund can provide financial assistance after a major disaster and 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. They stress 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.

Structures and procedures: Members stress that the EU needs to possess capable crisis response structures with **24/7 monitoring and response capacity**. They note 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. They reiterate 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.

As regards structures, Members consider that **all specialised services at EU level should be integrated within a single secured information system**, for example, within the ARGUS internal coordination platform. They highlight the need for political coordination in the Council in cases of severe crises. They welcome the establishment of the new EU Emergency and Crisis Coordination Arrangements.

Members also call for:

- the development of an Integrated Situational Awareness and Analysis (ISAA) for EU institutions and Member States, and calls on the Council to ensure timely implementation, and welcome the planned upgrade of the Monitoring and Information Centre to create a European Emergency Response Centre;
- the enhancement of capacities for providing and receiving assistance, as well as for exchanging best practices;
- the creation of 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.

With respect to the decision-making process in the Council following a request for assistance under the solidarity clause, Members consider it 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**. They point 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**.

Members consider 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. They therefore encourage the Member States to share their national risk assessments and risk management plans, to enable a joint appraisal to be made of the situation.

Members stress that the European Parliament 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 the origins and possible consequences of these event.

General considerations: Members also make a series of general considerations, in particular in regard to the existing links between the **EU and NATO**. They call for increase political collaboration between the Union's VP/HR and NATO's Secretary-General for the purposes of risk assessment, resource management, policy planning and the execution of operations, both civil and military. They also reaffirm 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**. In this context, they underline the inherent right of individual or collective self-defence.

Lastly, Members call 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.

It should be noted that a **minority opinion** in the context of this report was tabled by several GUE/NGL Members who reject the solidarity clause because of the lack of definition of its real scope and the fact that it would favour military to civil measures outside and inside the Union. These Members call for a **civil European Union** favouring the resolution of civil conflicts.

EU's mutual defence and solidarity clauses: political and operational dimensions

2012/2223(INI) - 22/11/2012 - Text adopted by Parliament, single reading

The European Parliament adopted by 438 votes for to 53 votes against, with 104 abstentions, a resolution on the European Unions mutual defence and solidarity clauses: political and operational dimensions.

Parliament recalled that the progressive framing of a common defence policy, aimed at common defence, is reinforcing the European identity and the strategic autonomy of the European Union (EU). It also recalled that 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.

Parliament also put forward the fact that, 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 cross-border nature and may easily overwhelm the capacities of any single Member State**. It therefore 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. It also made reference to Article 42(7) TEU ("mutual defence clause" or "mutual assistance clause") and Article 222 TFEU ("solidarity clause").

The resolution details in particular the manner in which these clauses should be interpreted and implemented in terms of scope of application and capacity.

1. Mutual defence clause:

Field of application: Parliament 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. And 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. In this sense, **non-armed attacks, for instance cyberattacks, could qualify for being covered by the clause**, if the Member State's security is significantly threatened by its consequences

Parliament reminds that the Treaty stipulates that commitments and cooperation in the area of mutual defence shall be consistent with commitments under NATO. It also points out 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, as foreseen in the “Berlin Plus” agreement.

Capacities: Parliament emphasises the need for European countries to **possess credible military capabilities**. It, therefore, 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, above all in times of restrained defence budgets. It 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. Both NATO and the EU should concentrate on strengthening their basic capabilities, improving interoperability, and coordinating their doctrines, planning, technologies, equipment and training methods.

Parliament 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.

Structures and procedures: Parliament 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. 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. It reiterates its call on the Member States to establish such a permanent capacity, building on the recently activated EU Operations Centre.

2. Solidarity clause:

Scope: 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 and to mobilise all the instruments at its disposal, including **the military resources made available by the Member States** (for example, in the case of a terrorist attack). It also calls for all significant threats to be taken into account, such as attacks in cyberspace, pandemics, or energy shortages.

At the same time, Member States are called upon to **invest in their own security and disaster response capabilities** and not to excessively rely on the solidarity of others.

In general, the solidarity clause must be invoked at the **demand of a Member State** before being implemented.

Capacities and resources: Parliament 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. To this end, it points out the fundamental role of the European Civil Protection Mechanism and supports the future mechanism which will replace it.

Parliament highlights the importance of ensuring that solidarity is underpinned by adequate EU-level funding mechanisms offering a sufficient degree of flexibility in emergencies. In this sense, it welcomes the proposed increased level of cofinancing under the Civil Protection Mechanism, in particular for transport costs. It recalls that the Solidarity Fund can provide financial assistance after a major disaster and 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. In general, this Treaty provision should be seen 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.

Structures and procedures: the Parliament stresses that the EU needs to possess capable crisis response structures **with 24/24 and 7/7 monitoring and response capacity**. It 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. So far as possible, it 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.

The resolution further calls for:

- the development of an Integrated Situational Awareness and Analysis (ISAA) for EU institutions and Member States and welcomes the planned upgrade of the Monitoring and Information Centre to create a European Emergency Response Centre;
- the enhancement of their capacities for assistance and the exchange of best practice;
- the creation of 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.

Parliament considers that the 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**. It also 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.**

Parliament also considers that it is necessary to strengthen the “threat assessment” component for better management and responsiveness to proven or potential crises. It therefore encourages Member States to share their national risk assessments to enable a joint appraisal to be made of the situation.

Parliament insists on being 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 the origins and possible consequences of these events.

General considerations: Parliament also raised a series of general considerations, particularly on the relations existing between the EU and NATO. It 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. Given the complementarities existing between NATO's goals and those laid down in Article 43 TEU, **Parliament warns, therefore, against the costly duplication of effort between the two organisations and the consequent waste of resources**. It urges much closer and more regular political collaboration between the EU High Representative and the Secretary-General of NATO.

It urges an increasing 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. It also 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**. In this context, it underlines the inherent right of individual or collective self-defence.

Parliament 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.