

Chapter 28

EU Common Security and Defence Policy

Confronting Internal and External Exceptionalism

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Abstract. This chapter presents the Common Security and Defence Policy (CSDP) as a test case for European exceptionalism and argues that whether CSDP is exceptional depends on the perspective taken. Measured against other groupings of states, a common security and defense policy remains the Union’s strongest claim to distinctiveness; yet within its own legal order it has become steadily less exceptional. Internally, the chapter traces a long-running normalization: implied judicial jurisdiction, the application of general principles, and a dense administrative architecture have drawn a once largely “intergovernmental” policy into the ordinary legal order – although it remains difficult to enforce Member State obligations. Since 2022 that process has accelerated, military capacity being built through internal market, industrial policy, and emergency legal bases under a markedly larger Commission role. The instruments are constitutionally unprecedented; the capacity they produce moves the Union toward the ordinary power politics it has long claimed to transcend. Externally, the picture is different: no other grouping has integrated defense capacities this far with the use of a large network of decision-making and preparatory bodies, and the war in Ukraine accelerated that. While internal exceptionalism is eroding, the “progressive framing” of a Union defense policy increasingly underlines its distinctiveness.

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1. Introduction

The European Union's engagement with defense goes faster than anything the Treaty drafters had in mind. Geopolitical developments, including the war in Ukraine, have caused the Union to take both unprecedented and unorthodox steps to make use of all available treaty competences to further develop its Common Security and Defence Policy (CSDP) (Wessel 2026). This chapter asks what that further stage means for the idea of "European exceptionalism" that runs through this Handbook. The place of this chapter in the current book, alongside contributions on the Union's contested external borders (Zielonka, this volume), its enlargement policy (... this volume), its neighborhood policy (Petrov, this volume), and migration (Koff and Lipovina, this volume) underlines that it is, among other things, a spatial policy: it is how the Union projects, defends and increasingly polices the outer edge of its own claimed space, from civilian missions in its immediate neighborhood to sustained military support for Ukraine (Genini 2025; Fabbrini 2025; Fiott 2023; Lonardo 2022). It also touches directly on the Union's self-description as a peace project confronting actual wars (Schröder and Niemann, this volume), and on the wider question of European exceptionalism in external relations addressed at greater length elsewhere in this Handbook (Christiansen, this volume). Given my own background, this chapter narrows that wider question to the legal architecture of CSDP specifically, leaving the broader political-science and philosophical treatment of the Union's external identity to those contributions. At the same time, this chapter is much more of a reflective assessment of the developments than a precise legal analysis (which, for those interested, can be found in the publications referred to in the next paragraph).

The argument runs along two dimensions, partly based on arguments I have further developed in other publications. The first is internal to the Union's legal order and reveals that over roughly two decades, CSDP has been drawn out of the constitutional isolation the Treaty framers built for it, through implied judicial jurisdiction (Wessel 2027), the extension of general principles of Union law (Wessel 2022), and a layered institutional security architecture that increasingly resembles ordinary Union governance (Wessel 2027). Furthermore – and related – the "progressive framing" of defense integration (to use the term of Article 42(2) TEU) since 2022 reveals an internal movement, achieved largely through instruments borrowed from internal market and industrial policy law rather than the CFSP (Common Foreign and Security Policy) chapter of the Treaty (Wessel 2026). The means used to build capacity are without precedent in the Union's own constitutional history.

The second dimension is comparative and addresses the external image. Whatever becomes of the Union's legal singularity or of its self-image as a peace project, the method by which its Member States have integrated their defense capacities while retaining sovereignty over the decision to use them has no counterpart anywhere and underlines the Union's distinctive method. The comparison matters because it supplies the benchmark against which the Union's own claims to distinctiveness are usually measured: alliances coordinate national forces without a legal order of their own, and federal states integrate defense by removing the national veto altogether. The Union does neither, and it is that intermediate position that makes CSDP exceptional when viewed from outside.

This chapter focuses on the relation between these internal and the comparative readings. Viewed externally, against other states and other groupings, a common security and defense policy remains the most exceptional thing the Union does. Viewed internally, from within the Union's own legal order, CSDP has over the last decades – with a marked acceleration over the last few years – become progressively more ordinary. That internal normalization is in large part a consequence of the entry into force of the Lisbon Treaty, which consolidated the Union's external relations far more tightly than before and so multiplied the points of contact between CFSP/CSDP and the Union's other policy areas (Szép and Wessel 2025). The tension between external and internal exceptionalism is the central puzzle this chapter aims to address.

2. An Exceptionalist View of CSDP

“European exceptionalism” is, on any reading, a contested term. Nolte and Aust (2013), whose skepticism this Handbook's introduction cites as an obvious point of departure, took the American precedent as their benchmark. They asked whether Europe or the European Union shows anything comparable to the two features said to characterize the American case: a missionary self-image and the practice of exempting oneself from rules one expects others to follow. Their answer was largely negative: European claims to distinctiveness, they suggested, describe difference without amounting to the strong, self-authorizing sense of exceptionalism the American comparison implies.

Other scholars have pushed back, distinguishing a descriptive sense of the term, in which it captures the EU's genuinely unusual constitutional features and their consequences under general international law. This is the more normative approach among legal scholars, in which “exceptionalism” functions as an accusation: the complaint that an institution, or a Member State, claims release from obligations that bind everyone else (a claim that is largely related to

the “autonomy” debate in the EU; Molnár and Wessel 2024; Lindeboom and Wessel 2023; see references there). Both senses are relevant to CSDP, a field that has at different times been defended as evidence of Europe’s distinctive contribution to multilateral security and civilian crisis management, and criticized, in the same breath sometimes, as an alibi for strategic weakness or institutional evasion.

Both meanings have also been worked out in a literature the CSDP case can be read against. For example, Lickova (2008) gave the descriptive version its early framing, tracing the pattern by which the Union secures accommodations under general international law that no ordinary party could claim. Isiksel (2016) drew out the normative charge, reading the Court’s reasoning in Opinion 2/13 as the expression of a self-image in which the Union treats itself as exempt from constraints it readily accepts for others. Ziegler, Horváthy and Buijnink (2025) do something different again, locating exceptionalism in the Member States rather than in the Union, as the tolerated non-compliance of a legal community reluctant to expel its outsiders. Yet, none of the three accounts fits CSDP well. The accommodation Lickova describes is, in this field, secured within the Union’s own legal order rather than under general international law. The self-exemption Isiksel identifies is asserted by a policy field against the constitutional order that houses it. And the outsiders here are the Member States, insisting that defense remain theirs. Cremona (2017) asked how far the CFSP’s characterization as a domain shielded from judicial scrutiny was ever accurate, and that is the question this chapter takes up.

Alongside this legal literature runs the well-known older debate in foreign policy theory about whether the Union is an exceptional international actor at all. Manners’ (2002) famous account of a normative power Europe, acting through the diffusion of norms rather than the projection of force, supplied the benchmark against which most later claims of distinctiveness have been measured, and it attracted an equally durable realist rebuttal from Hyde-Price (2006), for whom the normative self-description mainly reflected an absence of usable capability; Pollack (2020) pressed the materialist case further and Loriaux (2016) turned to European self-description itself, treating exceptionalism as a category of European debate rather than a property of European action – close to the way this Handbook poses its own questions. Sjursen’s (2012) volume, in which Tonra’s chapter appeared, framed the same problem as one of democratic legitimacy: if the CFSP is genuinely exceptional, the parliamentary and judicial oversight ordinarily demanded of foreign policy need not apply to it. The developments traced below cut across this debate. A Union that builds military capacity through industrial policy and emergency finance does not fit Manners’s account of a normative power, though neither has it

become the straightforwardly strategic actor Hyde-Price expected once capability caught up with rhetoric.

What deserves to be added at this point is that CSDP's constitutional otherness was never merely a technocratic drafting choice. It reflected a substantive self-image that developed alongside the CFSP commitment in Article 24 TEU to act in "a spirit of loyalty and mutual solidarity". It also reflected the Union's identity as a project born, in part, of the wish to make a repeat of Europe's twentieth-century wars impossible by design. An institution that describes itself in these terms has good reason to keep its military competences weak and Council-controlled: it is difficult to build up military power while defining oneself by having renounced it. On one reading, then, CSDP's exceptionalism amounts to a formalized abstention rather than a constitutional achievement: an institutionalized reluctance to behave like the states, and the great powers, from which the Union has wanted to distinguish itself.

The internal version of exceptionalism at stake in CSDP has always been anchored in the Treaty text. Article 24(1) TEU notably subjects the CFSP to "specific rules and procedures", a formula given effect by, among other provisions, Article 275 TFEU's in principle exclusion of the Court's jurisdiction save for legal-basis disputes and the review of restrictive measures, Article 40 TEU's insulation of the CFSP from the Union's other external competences, the requirement of unanimity for "decisions having military or defence implications" under Article 31(4) TEU, and Article 4(2) TEU's reservation of "national security" to the Member States. Read together, these provisions were long understood, not unreasonably, to place CSDP outside the ordinary legislative method, with a correspondingly reduced role for the European Parliament, confined to the consultation and information rights in Article 36 TEU. Cardwell's (2013) account of a "ring-fenced" CFSP, resistant even to post-Lisbon efforts at reappraisal, and Cremona's (2018) analysis of CFSP's uneasy position within the Union's constitutional architecture more generally, capture the resulting sense of a policy field permanently marked as different, even after successive Treaty revisions narrowed the gap in other respects.

That textual basis is, however, less uniformly restrictive than the standard reading suggests. Alongside the provisions that insulate CSDP from the ordinary Union method sits Article 42(7) TEU, which obliges Member States to aid and assist a Member State that is the victim of armed aggression on its territory "by all the means in their power". Read on its own terms, that obligation does not differ materially from Article 5 of the North Atlantic Treaty (Fazio 2025). It sits beside a second solidarity provision, Article 222 TFEU, which extends a comparable

duty of assistance to terrorist attacks and to natural or man-made disasters. Unlike Article 42(7) TEU, Article 222 TFEU expressly provides for the Union to mobilize military resources made available by the Member States. When France responded to the 2015 Paris attacks by invoking Article 42(7) TEU rather than the arguably more apposite solidarity clause, it did so within a Treaty framework that already contained collective-defense language at least as strong as NATO's.

It is also important to note that Member States have never surrendered the decision on the use of force: the unanimity and national-security reservations set out above see to that, the specific character of the neutral and non-aligned Member States' policies is expressly protected, and the European Council has yet to take the decision on moving to a true "common defence" that Article 42(2) TEU contemplates. Yet over roughly two decades those same Member States have authorized the Union, step by step, to organize the material substance of defense: capability identification through the European Defence Agency and the Coordinated Annual Review on Defence, binding commitments and some 68 projects under PESCO (the form of differentiated integration in which every Member State but Malta now participates; Blockmans and Macchiarini Crosson 2021; Blockmans 2018), standing planning and command structures in the Military Planning and Conduct Capability and its civilian counterpart, off-budget financing through the European Peace Facility, framework participation agreements under which a long list of third states, from Norway and Canada to Chile, the Republic of Korea and Vietnam, contribute to Union operations while decision-making autonomy stays with the Council, and, most recently, jointly funded procurement and subsidized production. While sovereignty over the use of force remains formally with the Member States, the capacity to generate force is becoming progressively common.

The claim here is that no other group of states has organized its security cooperation in this way, and that the arrangement therefore requires description in its own terms rather than by analogy. In other words, the Treaty text was not the main obstacle; what was lacking was a settled willingness to give it institutional effect. Admittedly, concrete implementation of the "progressive framing" of the Union's defense policy (Article 42(2) TEU) was (and still is) hampered by choices that were made from the outset: no Commission initiative, no qualified majority, no judicial supervision and, until very recently, no money. The post-2022 turn examined below removed several of those inhibitions, without any new competence being conferred.

3. The Internal Dimension – An Erosion of Exceptionalism through Legal and Institutional Normalization

The “progressive framing” of the Union’s security and defense policy had an impact on the traditional picture of CSDP as an outlier. Over the past few decades, new developments – each already well documented in the specialist literature – together amount to what has come to be called the “normalization” of CFSP, and by extension of CSDP (Kleinlein 2025; Wessel et al. 2020). As alluded to above, these “normalization” developments together put the internal exceptionalism claim into perspective. The structural condition for all three was the entry into force of the Lisbon Treaty. By abolishing the pillar structure, giving the Union a single legal personality, subjecting all external action to the common objectives of Article 21 TEU, and creating a double-hatted High Representative and a single External Action Service serving both the CFSP and the Commission’s external portfolios, Lisbon consolidated the Union’s external relations far more than any previous revision, and in doing so made the continued quarantine of the CFSP progressively harder to sustain. What follows is in large measure the accumulated consequence of that consolidation: it is the density of the links between CFSP/CSDP and the Union’s other policy areas, rather than any amendment of Article 24(1) TEU, that has done the normalizing work. A number of developments illustrate that consolidation.

The first is *judicial*. Article 24(1) TEU and Article 275 TFEU were long read as excluding the Court of Justice from CFSP matters save for two narrow exceptions: legal-basis disputes under Article 40 TEU, and the review of restrictive measures against natural or legal persons. Case law since the early 2010s has substantially qualified that reading. To give some key examples: in *Elitaliana* (Case C-439/13 P, EU:C:2015:753), the Court accepted jurisdiction over a procurement dispute connected to a civilian mission, reasoning that procurement decisions, even taken in a CFSP context, remain subject to the ordinary rules on public contracts and therefore produce reviewable legal effects. In *H v Council* (Case C-455/14 P, EU:C:2016:569), it extended a comparable logic to staff decisions affecting personnel seconded to a CSDP mission. *SatCen v KF* (Case C-14/19 P, EU:C:2020:492) went further still, treating acts of the EU Satellite Centre, a body with no Treaty mention at all, as producing legal effects reviewable under Articles 263, 268 and 340 TFEU, notwithstanding the general exclusion in Article 275 TFEU. The Court’s 2024 judgment in *KS and KD* (Joined Cases C-29/22 P and C-44/22 P, EU:C:2024:725, paras 68 and 117) took the next step. Confronted with claims arising from alleged failures of EULEX Kosovo to investigate wartime disappearances, matters falling neither under Article 40 TEU nor under the review of individual restrictive measures, the Court

held that the inclusion of the CFSP in the Union's constitutional framework means that the basic principles of the EU legal order apply in that field as well, and that its jurisdiction is displaced only where the contested acts or omissions are directly related to political or strategic choices. Taken together, these judgments justify starting, as I have argued elsewhere, from a presumption that the Court does have jurisdiction in CFSP matters, a presumption rebuttable only in the narrower circumstances the Treaty framers plainly intended to exclude (Wessel 2027a).

The second development may be called *normative*: the extension of general principles of Union law, developed elsewhere in the legal order, to CFSP and CSDP acts. The principle of sincere cooperation under Article 4(3) TEU, and the related requirement of consistency in external action under Article 21(3) TEU, have been read as applying across the board, restraining both the Union and its Member States even where no express CFSP provision addresses the point at issue. The CFSP chapter contains, in Article 24(3) TEU, its own more emphatic version of that duty, requiring Member States to support the Union's external and security policy "actively and unreservedly in a spirit of loyalty and mutual solidarity" and to refrain from any action contrary to the Union's interests or likely to impair its effectiveness as a cohesive force in international relations. Read alongside Article 4(3) TEU, whose positive and negative limbs the Commission has deployed to considerable effect elsewhere in external relations, that provision looks like the most demanding loyalty obligation anywhere in the Treaties (Wessel and Szép 2026, 284-285). Its enforcement architecture, as the preceding paragraph noted, is also the weakest, compliance being entrusted by the same provision to the Council and the High Representative rather than to the Commission and the Court, so that the substantive convergence of principle sits alongside a procedural divergence that has not narrowed at all. The debate over differentiated integration within Permanent Structured Cooperation (PESCO) illustrates the stakes: PESCO's Treaty basis in Article 46 TEU expressly permits a subset of Member States to cooperate more closely on defense capabilities, yet this differentiation remains constrained by the requirement that participating and non-participating states alike act consistently with the Union's broader CSDP objectives, a limit that would be otiose if general principles simply stopped at the CFSP's border (Houdé and Wessel 2023). The same reasoning underlies the Court's willingness, in disputes concerning the correct legal basis for international agreements with a CFSP dimension, to police the boundary between CFSP and non-CFSP competences by reference to principles of consistency that long predate the CFSP itself.

And thirdly, there is an *institutional* development, that is less often noticed. Beneath the handful of CSDP bodies named in the Treaty, the European Council, the Council in its Foreign Affairs configuration, the High Representative, and, more ambiguously, the European Defence Agency, sits a dense architecture built almost entirely on Council practice rather than Treaty text (Wessel 2027b). The Political and Security Committee (PSC) has only a thin Treaty foothold in Articles 38 and 41(2) TEU, and the EU Military Committee and the Committee for Civilian Aspects of Crisis Management rest entirely on Council decisions. Yet it is the PSC that agrees the planning documents on which every mission is built, and these are rarely reopened once they reach the Council (Juncos and Reynolds 2007). Formal unanimity thus coexists with decisive choices made at ambassadorial level. Within the European External Action Service, the EU Military Staff and the military and civilian planning and conduct capabilities, none of them set out in the TEU, plan and run every mission. Agencies with legal personality of their own, such as the European Defence Agency and the EU Satellite Centre, are exposed to judicial review (Case T-105/24, Airbus Defence and Space and Marlink v EDA), and decisions under the European Peace Facility, discussed further below, have also been challenged (Case T-457/24, Hungary v Council and Committee of the European Peace Facility). It is fair to say that, as such, none of this is evidence of exceptionalism. After all, the Union has always filled gaps in the Treaties with committees and administrative staff of this kind, in trade and competition policy as much as in CSDP. What is distinctive is the combination: a constitutional design meant to keep decisions close to the Member States and away from judicial and parliamentary oversight, run by an administrative apparatus of a density that normally comes with exactly that oversight.

By the mid-2020s, then, CSDP's classical legal exceptionalism – courts excluded, general principles inapplicable, no meaningful administrative footprint beyond the bare Treaty text – has been substantially eroded. This is, in the vocabulary of this Handbook's introduction, a straightforwardly descriptive claim: CSDP no longer differs from the rest of the Union's legal order in the ways it once did. Interestingly, this *internal* leveling has gone hand in hand with, and to some extent enabled, a sharper *external* profile: now that CSDP is largely governed as an ordinary field of Union law, the Union looks increasingly unusual as a security actor in comparison with others.

4. From Normalization to Geopolitical Convergence

The 2022 Strategic Compass set out the ambition to become “a stronger and more capable security and defence actor” by 2030; the war in Ukraine, a shifting American security posture and renewed attention to Article 42(7) TEU’s mutual assistance clause have supplied the urgency (Genini 2025). The ambition itself is not new; the Treaty has articulated it since Maastricht. What is new and exceptional is the route chosen to pursue it: internal market and industrial policy law, rather than the Treaty’s own defense provisions.

The European Defence Industrial Strategy, and the European Defence Industry Programme (EDIP) that gives it legal effect, rest on internal market and industrial policy competences rather than on the CFSP chapter. EDIRPA, the joint-procurement instrument adopted in 2023, offers partial budget reimbursement to Member States purchasing defense equipment together. The Act in Support of Ammunition Production, adopted the same year on a combined Article 114 and Article 173(3) TFEU basis, went a step further again, financing up to 35% or 40% of the eligible costs of expanding actual production capacity for artillery ammunition and missiles, largely in order to supply Ukraine. The European Defence Fund weighs directly on the Union budget, a step Article 41 TEU appears to foreclose for CFSP operating expenditure with military or defense implications, yet one the Fund avoids by resting on Article 173 TFEU industrial policy powers instead. And, finally, the 2025 SAFE Regulation goes furthest of all, invoking the emergency-assistance logic of Article 122 TFEU, a provision conceived for economic crises rather than military ones, to authorize Union borrowing in support of Member States’ defense procurement (Famà 2026) – yet currently challenged by the European Parliament before the Court (Case C-560/25, pending).

Most of this was therefore developed on bases found outside the CSDP treaty chapter and none of this is legally costless. It is important to keep in mind that Article 4(2) TEU reserves “national security” to the Member States, Article 31(4) TEU requires unanimity for decisions with military or defense implications, and Article 41 TEU keeps military CFSP expenditure off the Union budget. All three remain formally intact. On the letter of Article 41(2) TEU there is no conflict: it concerns expenditure on operations, whereas the industrial instruments finance the development of capabilities (Fabbrini 2024). The Union has driven its internal market and industrial policy competences through this gap, reaching much the same outcome – more defense capacity, more joint procurement, more Union financing – while avoiding each safeguard. Steinbach (2025) called this a “supranational turn”, and Brøgger (2025) showed how successive rounds of commitment narrow Member States’ room to disengage. Miglio and Perotto (2026) pointed to the limits of the trend in the Readiness 2030 package: national plans,

broad eligibility rules, and the activation of the Stability and Growth Pact's escape clause give national defense budgets money with few strings attached, so that the Union acts less as a strategic actor than as a financier of choices made in national capitals. That reading is in line with the argument of this chapter: the legal engineering may be supranational, but what it buys is national capability. The European Commission's own institutional weight has grown to match this: a dedicated Directorate-General for Defence Industry and Space, a Commissioner portfolio that would have been unthinkable a decade ago, and a White Paper for European Defence setting out an agenda largely shaped by the Commission, rather than by the Council.

This post-2022 acceleration marks no break with the past; it simply increases the tempo of a process that has been running since Saint-Malo, where it was decided, in 1998, that the Union needed its own credible military capability. The mechanism has throughout been authorization rather than transfer. Member States have not conferred a defense competence on the Union; they have permitted it, in a long series of discrete and formally reversible steps, to take on functions that come progressively closer to the organization of national defense. Each step was individually modest and individually consented to, but at the same time none has been reversed. What the war in Ukraine changed was the rate at which consent has been forthcoming, and the size of the increments: an instrument conceived to build partner resilience became the financing channel for a European land war, joint procurement moved from pilot scheme to standing program within three years, and Union borrowing for defense, unthinkable at the beginning of the decade, was authorized in 2025.

I have argued elsewhere that these developments need not be read as *ultra vires*, but rather as an increasingly integrated understanding of the Treaty's own objective, stated in Article 42(2) TEU, of the "progressive framing of a common Union defence policy", pursued "by other means" where the CFSP chapter's own procedures prove too slow or too constrained for the moment (Wessel 2026). But what kind of exceptionalism does it describe? No Member State builds its own military capacity through internal market or industrial policy law; states simply legislate, or appropriate funds, for defense directly, subject to whatever domestic constitutional constraints apply. The Union's route to comparable capacity is without precedent, and in that narrow sense genuinely exceptional. Perhaps ironically, what it produces is nothing exceptional at all: an actor able to procure weapons at scale, coordinate industrial capacity across borders and finance sustained military support to a partner at war, in substantially the way any ordinary state, or any great power, already does.

5. The External Dimension – the Union Seen from Outside

With CSDP's internal exceptionalism slowly receding, its external exceptionalism grows. This external exceptionalism has effects mainly on the ways in which third states are confronted with the Union as such, rather than with individual Member States. Third states have to accept that the EU is different and that for EU states membership of Union "has resulted in a DNA mutation of their statehood" in the sense that these states are simply no longer in charge of all aspects of their international relations (Casolari and Wessel 2024). The clearest evidence lies in who third states sign agreements with. For instance, a state hosting a Union mission concludes its status agreement with the European Union itself, not with the Member States whose personnel make up the mission and not with both in parallel. The Council's model Status of Forces Agreement for Union-led forces and its model Status of Mission Agreement for civilian crisis management missions, of 2007 and 2008 respectively, provide the template for these instruments, which are concluded under Articles 37 TEU and 218 TFEU and bind the Union alone (Törő 2020; Molnár and Wessel 2024). What they secure is substantial: personnel enjoy immunity from the criminal jurisdiction of the host state in all circumstances, and exemption from its civil and administrative jurisdiction for acts performed in the exercise of their official functions, a set of privileges acknowledged to be extensive by comparison with equivalent arrangements elsewhere in international law (Koutrakos 2013). This also runs in the other direction: framework participation agreements bring third states into Union operations on terms the Council sets. Third parties, in short, have come to treat the Union as the interlocutor in this field, and to accept an arrangement in which the contributing states are covered by a treaty to which they are not parties.

The same arrangement reveals a gap in the Union's distinctiveness. If something goes wrong on a mission, it is often unclear who answers for it. The Articles on the Responsibility of International Organizations, adopted by the International Law Commission in 2011, apply to the Union as to any other international organization, but they were not drafted with its composite structure in mind and fit it imperfectly (Molnár and Wessel 2024). Conduct in a Union operation may be attributed to the Union on the ground that the operation is established by the Council, governed by Union instruments and conducted under an EU Operation Commander answering to the Political and Security Committee – a test of normative rather than effective control, the latter being what the Articles actually codify – while a Member State retaining control over its own contingent may be responsible for the same conduct, and both may be jointly responsible (Delgado Casteleiro 2016). For an injured individual or an aggrieved

third state the addressee of a claim is correspondingly hard to identify, and the structural obstacles to obtaining a remedy are considerable given the limits on the Court's jurisdiction in this field (De Coninck 2023). The idea that the Union should serve as a single portal for responsibility questions arising from its missions therefore has obvious merit. After all, the Union has acquired the capacity to deploy without acquiring the settled accountability arrangements that attach to states doing the same thing.

A third external marker is the Union's standing relationship with NATO, which is anomalous in its own right. Twenty-three of the 27 Member States are also members of the alliance, so the same forces and, in large part, the same defense budgets serve two organizations of very different legal character whose memberships overlap without coinciding (Nijhof 2026). The Treaty acknowledges this point: Article 42(2) TEU requires the CSDP to respect the obligations of those Member States which see their common defense realized in NATO, and Article 42(7) TEU's mutual assistance clause is drafted so as not to displace the North Atlantic Treaty. In practice the two have built a formal interface – the Berlin Plus arrangements of 2003, under which the Union may draw on alliance planning capabilities and command structures, and the joint declarations of 2016, 2018 and 2023 – for which there is no parallel between any other pair of organizations in the security field. Factually this cooperation was unavoidable: a legal order built for economic integration and a military alliance have had to construct a standing institutional relationship because their memberships and their tasks overlap too heavily to be left to coordination. Seen from outside, then, the Union's exceptionalism in this field goes beyond what its Member States have agreed among themselves. It shows in the treaty practice of third states and in the unsettled law of responsibility, as well as in the arrangements the Union has had to build with NATO.

The comparative dimension thus shows what is unusual about developments in this area. Whatever the Union is converging on substantively, it is foremost the method by which it has got there that is unmatched. Twenty-seven states that have retained the decision on a straightforward common defense, and several of which are constitutionally committed to neutrality or non-alignment, have nonetheless agreed to plan their capabilities collectively, report on their national defense planning to a Union agency, bind themselves to projects under a differentiated framework, fund a partner's war through a common instrument, and now buy weapons together with subsidized Union money. No comparable body of states has done any of this, and no federal analogy describes it either, because the competence to use the capacity being built remains stubbornly national. The war in Ukraine accelerated the process, but it did

not alter its form. On this reading the Union does remain exceptional, but in a procedural sense: it has found its own way of integrating what states normally either keep to themselves or hand over to a federation.

6. Assessing External and Internal Exceptionalism through the Lens of Territorial Space

The part of the Handbook this chapter is situated in deals with the Union's contested external boundaries, and with the gap between the values the Union declares and the Realpolitik it practices. Obviously, there is no formal "territory" of the Union. Yet – and clearly adding to the EU's exceptional status – "territorial questions" play an essential role in the Union's existence (Cardwell and Wessel 2020). CSDP is how the Union projects its perimeter and, where necessary, defends it by force or by the credible threat of force. Enlargement and neighborhood policy do the same work more slowly and by consent (Petrov, this volume); border control supplies the harder edges (Koff and Lipovina, this volume). The CSDP record is considerable: civilian and military missions from the Balkans to the Horn of Africa, more than 40 operations since 2003, over 20 running concurrently in 2025 and, since 2022, sustained material support to a state resisting invasion on the Union's own eastern border. One detail of that support matters here. The EU Military Assistance Mission in support of Ukraine, funded through the European Peace Facility and run from the Military Planning and Conduct Capability in Brussels with training commands in Germany and Poland, is the first CSDP mission ever conducted on European soil (Wessel and Szép 2026, 318-319). A policy built on the premise, written into Article 42(1) TEU, that the Union deploys its operational capacity on missions outside the Union has crossed that line without any Treaty amendment, simply by locating the training of a partner's armed forces on the territory of the Member States themselves.

The framing of European space has a narrower and more concretely legal application. Article 346 TFEU has long allowed Member States to shield essential security interests connected to arms production from ordinary internal market disciplines. As we have seen, the new instruments do something closer to the reverse, using internal market and industrial policy tools to define, for the first time in explicitly territorial terms, what counts as European defense-industrial capacity for funding purposes. Furthermore, the satellite imagery and situational-awareness products on which the Union's early warning depends are supplied by the EU Satellite Centre not only to CSDP missions, the EEAS and the Member States but also to

Frontex, so that a single analytical capacity serves both the projection of force beyond the perimeter and the policing of the perimeter itself.

This bears, finally, on the deeper skepticism with which this chapter began. Nolte and Aust's (2013) doubt about the existence and value of "European exceptionalism" gains some support from the CSDP case, but not in the way they might have expected. If Europe's claim to distinctiveness in security policy was always closer to an institutionalized abstention from ordinary geopolitics than to a positive achievement – in Tonra's (2012) terms closer to myth than to substance – then its current erosion is not obviously the emergence of a new and more sophisticated exceptionalism. It may equally be read as the quiet ending of the old one: the Union becoming, in substance, a security actor much like others, even as it continues, in its Treaty text and its declared self-image, to insist otherwise.

7. Conclusion

The aim of this chapter was to view the developments in European security and defense policy through the lens of "EU exceptionalism". It has traced two dimensions of exceptionalism in this area. Internally, legal and institutional normalization, running through implied judicial jurisdiction, general principles and institutional layering, has brought CSDP into the ordinary legal order of the Union, eroding a form of exceptionalism that was always more textual than substantive. This dimension is strengthened by an acceleration since 2022, conducted largely through internal market, industrial policy and emergency legal bases, that has built real capacity while bypassing the very safeguards – unanimity, budgetary separation, and the national security reservation – that the Treaty built in.

At the same time, we have seen another, comparative or external, dimension that is partly the result of this internal development. The Union has integrated national defense capacities further than any comparable group of states while leaving the decision to use them where it has always been, and it has done so by successive authorizations rather than by any transfer of competence, at a pace the war in Ukraine has sharply increased. European exceptionalism in this field now resides in that method, rather than in the ambition it serves or the restraint it once expressed, and it is visible mainly from outside the Union. Lisbon's consolidation of external relations has drawn the CFSP and the CSDP into the ordinary business of Union law, while leaving the Union's method of defense integration as singular in comparative terms as it has ever been. On this reading, both dimensions are aspects of a single development, in which treating security and defense as an ordinary field of Union law has gone together with a form of integration that

remains without parallel. Or, in perhaps clearer terms: a policy field that was designed as the Union's internal exception has largely ended up as its external one.

This brings us back to Tonra's (2012) diagnosis of a "myth of EU exceptionalism". On his account, the claim that the CFSP occupies a domain apart from ordinary Union law, and from ordinary international relations, did real political work: it justified weak parliamentary and judicial oversight, and it allowed defenders and critics alike to treat the policy's familiar failures, indecision, fragmentation, dependence on NATO, as structurally inevitable rather than as the product of choices that could, in principle, be revisited. This chapter has analyzed what has become of that myth. Internally it has been dismantled in law, provision by provision, by the normalization traced above. Externally, the distinctiveness the myth asserted turns out to be better founded than Tonra allowed, though it lies in the Union's method of integrating defense rather than in the ideals the myth invoked.

Returning to the questions this Handbook poses in its Introduction, what is Europe, what holds it together, what does it mean to be European today, CSDP suggests a somewhat ironic answer. What appears to hold European security policy together, at this particular moment, is less a distinctive European ideal than a set of legal-technical improvisations, adopted under emergency conditions, that converge the Union's practice with the ordinary conduct of states. Whether this represents a genuinely new form of exceptionalism, a uniquely Union-specific path to military capacity that no state has needed to travel, or simply the belated normalization of a policy field that was never as exceptional as its own self-description suggested, remains open. Pending litigation (Corda 2026) suggests that the question posed here is not merely a retrospective one.

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