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Mutual defence in the EU > The response to the terrorist attacks in Paris is a testing ground for the European security and defence policy

The decision to activate the mutual defence clause of the Lisbon Treaty in the wake of the terrorist attacks in Paris represents the first effort to define the clause in practice. Experience gained from this case will show whether more joint planning or common structures are needed in the future.

The terrorist attacks in Paris gave rise to a historic step in the EU's security and defence policy. Proposed by the French president, François Hollande, the EU member states decided to activate – for the first time ever – the mutual defence clause included in the Lisbon Treaty. Hollande's proposal gained unanimous support, and the preparations for concrete action started swiftly and smoothly.

The truth of the matter, however, is that this decision – and whatever happens in terms of implementing it – forms an important precedent for the future use of this vital treaty provision, which many had believed would remain just a symbolic expression of solidarity in the EU.

After twenty years of arm-wrestling, the mutual defence clause – the EU's equivalent of the famous fifth article of NATO's charter – finally saw the light of day along with the Lisbon Treaty in 2009. The wording of the clause is taken directly from the old Brussels treaty which, for many decades, provided the basis for the Western European Union. The clause obligates the member states to offer 'aid and assistance by all the means in their power' towards a member state which is a 'victim of armed aggression on its territory'.

The concerns of the non-aligned member states – taken by surprise

when the clause finally found its way into the treaties – were acknowledged by making reference to the specific character of their security policies. The concerns of those NATO members that were worried about the effects on their North Atlantic Alliance were acknowledged by adding a reference to the effect that, for its members, NATO would remain 'the foundation of the collective defence'.

With NATO still going strong and the threat of an armed attack being distant, few details were added to the treaties apart from the scant text on the obligation for mutual defence. Neither a specification about whether the clause could be applied to conflicts other than 'armed aggression' nor any guidelines for defence planning in support of joint preparedness to implement the clause were included. Even the reference to the means of coordinating the mutual assistance in the Council and the political and security committee, which was included in the Constitutional Treaty, was omitted from the final Lisbon Treaty text.

The EU members' decision to activate the mutual defence clause after the terrorist attacks in Paris duly represents the first effort to add content to the thus far empty doctrine on how to interpret the

clause. First of all, it makes it clear that, like its equivalent in the NATO context, mutual defence can be applied to cases that go beyond its strict wording. A serious terrorist attack fulfils the criterion of 'armed aggression' in this case. A serious cyber attack or some other form of modern threat might do the same.

The concrete support given to France – and the way the different forms of support, both civilian and military, will be organised – are indicative of the EU's capacity to use this instrument without any proper planning system or command structure, and sends the necessary signals to the Union's modest common military machinery in this respect. The starting point is that assistance is managed in the form of bilateral arrangements between the country assisted and those assisting it. Experience will show if this is sufficient or whether joint structures should be created in support of providing assistance.

Moreover, the character of assistance provided by the different member states adds content to the formulation 'by all the means in their power'. This first case of activating the mutual defence clause will show how diversity concerning the forms of participation can be tolerated among the member states.

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What is the threshold of assistance that must be reached by any single member state in order to still count as a serious expression of solidarity to the country assisted – in this case France? Action taken in this case hints at the kind of uniformity that might be expected in the event of more traditional military conflicts as well.

The activation of the mutual defence clause now shows that it is not meant to be just a dead letter of the EU treaties. From now on, the threshold for its use will be lower as practice exists. In order to maintain the culture of equality between the member states, even proposals to use it coming from smaller member states will have to be taken seriously whenever there are sufficient grounds for joint assistance.

The activation of the defence clause will also add a new dimension to the ongoing drafting of the EU's foreign and security policy strategy as well as to the general development of the Union's common security and defence policy.