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THE EUROPEAN ARMY: POSSIBILITY IN EUROPEAN LAW AND THE US DILEMMA

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POSSIBILITY IN EUROPEAN LAW AND THE US DILEMMA

Throughout history, wars have been the most powerful paths of civilisation transfer. This transfer, which prolonged the short-term effects of material gains, powerfully opened the doors of new eras for civilisations. At other times, wars brought about the end of some civilisations, and those that survived continued to struggle with the legacy of the old. As a matter of fact, for a long period of time, wars were centred on the aim of 'elimination'.

The irresistible change in the world as we approach the present day has brought the aims of wars to another dimension. As countries moved away from the economy of conquest and booty with the Age of Discovery, and as production became the centre of the economy, especially with the Industrial Revolution, wars were fought with the aim of supporting production and marketing. Nevertheless, this aim gave rise to the problem of the *'inability to divide the world'*, and the resulting two world wars left irreversible suffering in their wake.

In the period following the World Wars, Western countries preferred to unite in order not to fight rather than to fight in order to disintegrate. The League of Nations (MC) was the first institutional experiment following the Great War. Although it became ineffective with the outbreak of World War II, it was an impressive step forward. The United Nations (UN), which was created after this war, was a candidate to ensure global peace by modifying the shortcomings of the MC. However, it did not seem possible to build a common legacy that would ensure the same view of peace all over the world. Moreover, the two wars that left heavy damage were centred in Europe. Therefore, the main threat to global peace seemed to be Europe's internal problems.

When Europeans realised that they could not overcome their internal problems by fighting, they tried to be born on the world trend of unification. They accepted the differences they had previously fought against as 'diversity' and preferred to integrate on the basis of their common values[1]. Today, the European Union (EU or Union), the only one of its kind with its supranational structure, is a product of this birth. The integration of Europe was mainly based on economic, commercial and cultural integration. In this way, countries were linked in such a way that they could not tolerate a system in which each other was weakened.

Although a military form of this integration has been on the agenda from time to time, the security guarantees promised by the United States of America (USA or United States) and embodied in the North Atlantic Treaty Organisation (NATO) and the unwillingness of countries to compromise their military sovereignty have blocked the path to a *'European Army'*. Now Europe is more favourable to the idea than before. In the following article, there having to examine the history of the military wing of

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[1] The motto of the European Union is a good example of this: *In varietate concordia* (translated from the Latin original: Unity in Diversity)

European integration and analyse the chances of this army being legally viable in light of the changing conditions from past to present.

1. The Concept of the European Army and Historical Background

In the aftermath of World War II, the situation in Germany was a major problem for the Allies. The Treaty of Versailles, signed in June 1919, had not only prevented the Germans from arming themselves, but had also led them to gather their forces and start a more destructive war[2]. It was clear that attempts to keep the Germans out of Europe would not yield favourable results.

In addition, the Soviets had become one of the two poles of the world after the war and were no longer an ally of the major European powers against Germany. On the contrary, the Soviets wanted to steer developments in Europe in line with their own interests and sought to consolidate their domination in the east of Europe. Moreover, despite the assurances given by the United States, the Europeans were fighting a close struggle against the Soviet threat on the same continent.

It was important that Germany should not be left outside the system and subjected to Versailles-type repression, not only to avoid the anger of the German nation, but also to prevent the Soviets from filling the vacuum. So much so that President Kennedy's **"Ich bin ein Berliner"** was a

serious message to the Soviets about the West's policy towards Germany[3]. As a result, the West aimed to keep the Germans with them while building the institutions that would ensure its own security, so that they could now fight against common enemies.

All these developments paved the way for the signing of the Brussels Treaty immediately after World War II[4]. With the Treaty, the United Kingdom, France, Belgium, Luxembourg and the Netherlands established the **"Western European Union (WEU)"** by entering into a mutual intergovernmental defence cooperation that would also function in economic, cultural and social fields.

Initially, this union was conceived as a league of elites and was planned not to expand[5]. However, the failure of the Pleven Plan, which included West Germany and Italy and would have established the European Defence Community (EDF)[6], pushed the union towards a necessary expansion. Although particularly reluctant to allow the Germans to develop a defence force, by 1954 the EEU had grown to include these countries, making it part of NATO, its biggest ally[7].

The European Defence Community was a sharper attempt to establish a European Army than the WEU. Indeed, the term European Army was first used in the debates around the EDF by André Philip, Charles De Gaulle's Minister of the Interior: *"What we want is a European army*

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[2] Neiberg, 2017

[3] A quote by John F. Kennedy, the 45th President of the United States of America, on 26 June 1963, meaning *"I am a Berliner"*.

[4] Rohan, 2014

[5] Erkul, 2023, p. 981

[6] Rohan, 2014

[7] Although the British emphasised the indispensability of German aid, they were wary of openly welcoming Germans into their defence forces. For further reading see: Winston Churchill's Address to the Council of Europe of 11 August 1950, Strasbourg

financed by funds derived from European taxes". Within this plan, the first idea was to create an army under a single political and military authority, subordinated to the political institutions of Europe, protecting transatlantic co-operation[8] . The army to be formed would be composed of the integrated and fused forces of the countries, rather than united. On the other hand, the army was to be made autonomous with the creation of a Ministry of Defence. Nevertheless, this autonomy was not to supersede NATO.

The Western European Union, on the other hand, was a security co-operation network and had become increasingly ineffective vis-à-vis NATO. However, similar to the North Atlantic Treaty, the EDC contained provisions that recognised an attack on a member state as an attack on the entire union[9] .

All these initiatives, in addition to removing the Germans as a threat, had one more objective and one more subject: France's unwillingness to abandon the fate of Europe to the United States. The French did not want to assume a subordinate role vis-à-vis the United States with the creation of NATO, and they could not accept the British as a leader[10]. Faced with this situation, France withdrew from the military wing of NATO in 1967, while seeking alternatives in continental Europe.

The Cold War prevented Europeans from responding to these alternatives because NATO, and moreover the US military power, was an indispensable shield. During the Cold War years, Europeans pursued their integration in the economic, legal, commercial and cultural spheres, as

already mentioned, and tended towards the characteristic structure of the European Union.

2. European Union Legislation and Defence Integration

Although the European Union has not centred on military integration throughout its history, it has not avoided cooperation to address security concerns. Besides, in the pillar era, the *"Common Foreign and Security Policy (CFSP)"* was one of the three pillars of the EU[11] . However, the Union achieved unsatisfactory results in the area of security, where it tested itself in the aftermath of the Cold War. The fact that the US and NATO forces put an end to the conflict in Kosovo, that the Bosnian intervention was ineffective and that the genocide in the region could not be prevented during the 90s led Europeans to question their security experience.

Firstly, the EU was incorporated into the EU with the Marseille Declaration. Then the *'European Defence and Security Policy (Common Defence and Security Policy - CDSP - after the Lisbon Treaty of 2009)'* was established in accordance with the CFSP. Unlike its predecessors, these steps also included the support of the US. The 1998 Saint Malo Summit decision that the *Union* should have *"autonomous operational capacities, backed by credible military forces"* and that it should make them available and use them to respond to international crises was backed by this support[12] .

By 2000, the humanitarian assistance, rescue operations, peacekeeping, protection and crisis management tasks of

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[8] Gözkaman, 2014, p. 7
[9] For further reading see: European Defence Community Treaty, 1952

[10] Erkul, 2023, p. 987
[11] Efe, 2010, p. 38
[12] Erkul, 2023, p. 990

the EEU were transferred to the EU. Subsequently, a "core objective" was set, which was that by 2003 the member states should have an Emergency Response Force ready to be deployed to a crisis area within 60 days as part of a military operation and that this force should be maintained for at least one year. The members agreed to establish a military presence capable of carrying out all activities within the "Petersberg Tasks"[13] and signed the "European Security Strategy".

The 2009 Treaty of Lisbon characterised this strategy. Article 42 of the Treaty emphasised the obligation of the other member states to assist, to the best of their ability, in the event of an attack on the territorial integrity of an EU member state. This article, which is similar to Article 4 of the North Atlantic Treaty, emphasised the expectation of self-sacrifice in providing assistance rather than an obligation to respond to an attack.

Article 42, subparagraph 6 also gave life to "Permanent Structured Cooperation (PESCO)". PESCO was an institution that was pursued in order to overcome the problem of the inability to make decisions without unanimity arising from countries unwilling to compromise their military sovereignty. In this way, those in favour of continued deepening of integration in the European Union and those who were hesitant about the sharing of sovereignty became clearer. The progress made by the Union has gone so far as to spark debates on whether there to ever be a political union. A military reflection of the current supranational order is likely to continue to raise questions, especially in Eastern European countries.

PESCO, which aims to strengthen the institutional experience of the European Union with its projects in the military field, currently includes more than sixty projects. In addition, EU membership or being in Europe is not a requirement to be a member of PESCO. Since 2021, the USA, Norway and Canada have also joined PESCO.

3. The European Army Debates: Opinions and Criticisms

3.1. Advantages and Disadvantages of Defence Integration

The first advantage of European defence policies was seen as the development of a second-strike capacity. Indeed, the defence of nuclear threats with a first strike followed by a counter-first strike, and the second strike by the defending country is prioritised by modern theories of warfare[14].

Another advantage is that conventional wars have not lost their importance. Considering the operation launched by Russia and the methods used by Israel in the occupation of Palestine together, the conflict of countries in the same geography with nuclear powers is a result that cannot be justified by the economics of war.

If we need to talk about the disadvantages with an opposite approach, it is necessary to seek an answer to the question of which common goal the masses, who do not have a common nation, would prefer to fight for. Likewise, the inability to form this unity is also an important challenge to the establishment of army discipline.

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[13] Efe, The Common Foreign and Security Policy of the European Union, 2008, p. 73

[14] Gündoğdu, 2016, p. 4

Moreover, conventional conflicts differ from advanced technological conflicts in terms of field experience. Even in the Afghanistan intervention, the Europeans avoided conducting operations in areas where the fighting was intensified and took part in relatively bearable processes such as administrative tasks and patrolling.

Another disadvantage is that the legislation of the European Union is not capable of supporting an army. Although the integration of Europe has been developed by compromising internal sovereignty, it has always been deepened by preserving the unique aspects of the countries that may differ from the EU. Moreover, the European Court of Human Rights frequently mentions in different judgements that the institution of conscientious objection must be included in constitutions. For this reason, the countries and the Union's acceptance of regulations that would lead to the European Army may not be welcomed by the constitutional courts and equivalent institutions of this geography.

3.2. Differing Views and Concerns among Member States

The notion of common purpose emphasised in the previous paragraph is also the reason for the divergence of EU members from the European army. Since the Cold War, the UK has either refused to sign up to texts that would curtail its internal sovereignty or has adapted these texts to its own particular circumstances. The fact that they were not included in the Schengen and Euro zones during their years in the EU is a good example of this

policy. Therefore, the British opposed both the Pleven Plan and the AST for the same reasons. However, they also supported any institution that prioritised international cooperation over supranationalism, such as the EU.

A number of countries want to maintain their policy of neutrality in the field of defence. Malta therefore excludes itself from PESCO[15] . Hungary supports PESCO, but is unhappy about sharing its sovereignty with the EU. The country is currently at the centre of criticism in the EU for laws that would strengthen its sovereignty[16].

The far right in Italy, fuelled by the migrant crisis, believes that the EU has completed its mission[17]. As it can be understood, the integration of Italians into the European Army, although possible, not to be easy.

As to be analysed later in this article, the Germans have redefined their position in the light of the changing dynamics in the United States. So much so that they are now suggesting that Europeans should reconsider self-determination.

France, on the other hand, is the owner and still the leading proponent of the European Army idea. In fact, De Gaulle comparisons for Macron have been on the agenda of the media for some time[18].

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[15] For further reading see: https://www.pesco.europa.eu/pressmedia/development-delivery-and-determination-pesco-forging-ahead/

[16] The Guardian, 2024
[17] Reuters, 2023
[18] Politico, 2021

4. US Approach

4.1. US Military Presence in Europe

In this article, the US and NATO were often used interchangeably. This is because Europe's development of its own defence autonomy was often equated with breaking US domination by creating an alternative to NATO. For this reason, NATO's perspective on the European Army debate was also a reflection of the US perspective.

Although the United States has from time to time abandoned the concept of "world gendarme", it still has the strongest stake in Europe's security. According to the statement of the United States European Command (EUCOM) dated 2022, the number of American forces on the continent, which was 65 thousand soldiers until the Russian-Ukrainian War, was increased to 100 thousand soldiers with this war[19].

Founded in 1952, the fact that the Command is currently based in Stuttgart is an indication of the importance the US attaches to military co-operation with Germany. Today, EUCOM has established headquarters in different provinces of Türkiye.

4.2. US Attitude towards the Idea of a European Army and its Reasons

As the pole of the democratic world after World War II, the United States offered considerable opportunities to the states aligned with it. In addition to material aid, the sharing of nuclear forces was one of the

important opportunities that Europeans found during this period. In addition, since the 70s, the Americans, seeing that conventional warfare was gaining prominence, started to encourage Europe in this sense as well. In this context, the development of defence policies by the Europeans was indeed a policy adopted by the Americans.

In addition to the aforementioned points, the US did not want these policies to develop completely independently of it. Therefore, the diplomacy they developed in the UK's admission to the EU was not surprising[20]. With the adoption of the CSDP, the United States developed its own institutional approach to European defence policy: 3D[21] . According to this policy, the United States supported Europe to have autonomous military structures *"no decoupling, no discriminating, no duplication"*. In other words, the Europeans would not break away from NATO, would keep their own defence policies and institutions open to the participation of all countries and would not duplicate NATO's projects[22]. It seems that the United States' European policy has stabilised in order to maintain a minimum level of protection dependence on them.

4.3. Changing Defence Dynamics in US-EU Relations:
Trump and Biden

Despite all the developments, the building of the CSDP has remained dormant and has often failed to deliver what was expected in dealing with crises. The reasons for the failure of European leaders' predictions in the Arab Spring and the lack of deterrent

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[19] Euronews, 2022
[20] Soytürk, 2017, p. 74
[21] Efe, Efforts to Establish a Common Foreign Policy in Europe during the Cold War, 2010, p. 45

[22] On the other hand, Türkiye is kept away from PESCO projects and despite criticism, its participation in the projects continues to be vetoed by Austria, the SCGA and Greece.

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effect in the Russian interventions in Georgia and Crimea were discussed by European leaders at different summits. However, it was difficult to talk about a real European defence when all these problems were still being discussed under the NATO shield. The desire of Europeans to, in Merkel's words, "... take their destiny into their own hands and fight for their own future..." became evident with the victory of Donald Trump in the 2016 US Presidential Elections, not to overcome crises[23].

Donald Trump has pursued policies that have upset the transatlantic balance by aggravating the US. The main crises that emerged during his term can be summarised as follows[24]: The US withdrawal from the nuclear deal with Iran and pressure on European states that increased their investments in Iran, frictions with European states, especially Germany, that did not increase their military spending to 2% of their GDP, increased taxes on trade with European states, the United States' support for the Brexit process.

For the first time, unlike their historical frictions, European states were worried that the American shield might be removed. The Biden era that followed, although it tried to repair the insecurities, could not eliminate the problems. Higher taxes were not lowered, and the fulfilment of Ukraine's expectations against the war launched by Russia was at the centre of the discussions. In this period, Macron pointed out that NATO was brain dead and pointed to European solutions[25].

5. Future Perspectives and Possible Developments

The implication of this narrative may be that Europe has no ambition to build an autonomous army, and if it does, it tends to present it as an adjunct to NATO. Despite all the criticisms levelled against NATO in Europe, NATO enlargement continues on this continent.

Indeed, the current legislation of the European Union is far from being able to support the establishment of such an army. Against all supranational regulations, defence policy is mostly a collection of wishes. Moreover, it seems difficult to reallocate similar resources when most Europeans do not even meet NATO criteria.

In addition, the EU's numerous treaties with the US make it easier for the US to block this military through economic means. The share of American goods in EU consumption and the share of US exports in European exports bind the two geographies in a way that makes them inseparable in the short term. Indeed, the definitions of a European Army no longer include the element of autonomy that they did in the 1950s, but they do offer structures that would increase NATO's mobility.

As already mentioned, European law narrows the pathways to such an army due to the balance between security and human rights in favour of human rights. The dominance of the institution of conscientious objection on the continent through national and international courts, the growing support of European peoples for green policies and the ageing

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[23] Ünaldılar, 2020, p. 237
[24] Miller Centre

[25] The Economist, 2019

population are among the main legal and sociological reasons that make a European army unlikely.

Nevertheless, it is clear that the Europeans to continue to open new pages on military security. They only want to increase the specific weight of the continent, without separating these pages from the NATO libraries. They are also waging a different kind of cold war with the United States, which has intensified in recent years, through fines and similar instruments against American companies.

Despite the negative atmosphere, the US seems to be pleased that the Europeans are taking more initiative in defence. At this point, the fact that the Europeans have an autonomous military power has the effect of dissipating the negative image of the US. The fact that the necessary humanitarian interventions are carried out quickly and in a way that satisfies the public opinion can be interpreted in a way that to prevent the US from carrying out operations in geographies where it is not a neighbour. In addition, the US can now act more freely in defence expenditures.

In the end, it seems that the European Army to remain in our lives as a debate that always makes us talk about it, albeit in different ways, and from time to time to drag NATO into changes.

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