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The EU's Collective Defence Framework: A Law-in-Context Analysis of Article 42.7 TEU Amid the War in Ukraine

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Since the onset of the war in Ukraine on 24 February 2022, the European Union (EU) has acted with unity and cohesion, taking unprecedented steps, particularly in defence. Although the illegal and unprovoked full-scale invasion of Ukraine by the Russian Federation has re-emphasised the importance of the North Atlantic Treaty Organization (NATO) as the backbone of Europe's territorial defence, a legal basis exists for the EU to play a role in collective defence. In 2007, the Lisbon Treaty introduced into the EU's constitutional framework a collective defence obligation similar to Article 5 of the North Atlantic Treaty (NAT). Article 42.7 of the Treaty on European Union (TEU) commits EU Member States to assist one another in the event of armed aggression. Additionally, a solidarity obligation codified in Article 222 of the Treaty on the Functioning of the EU (TFEU) requires the EU and its Member States to support any Member State in the event of terrorist attacks. These norms have seemingly attracted little attention from legal scholars. With the war in Ukraine intensifying, concerns over Trump undermining NATO's mutual security guarantee and the increasing likelihood of military attacks on Europe, understanding how credible the EU's mutual defence commitment is, how it would be operationalised and how it interplays with the EU's solidarity commitment, as well as with NATO's own mutual defence commitment, is of the utmost importance. This paper conducts a law-in-context analysis of the EU's mutual assistance clause, drawing insights from European security scholarship and paying special attention to the historical, geopolitical, and strategic context in which the clause was adopted and has come to operate. To this end, the 1948 Brussels Treaty, 1954 Modified Brussels Treaty, 2004 Draft Constitutional Treaty, and 2007 Lisbon Treaty will be analysed. EU security strategies and EU-NATO Joint Declarations will also be examined.

What discipline or branch of humanities or social sciences do you identify yourself with?

European security law

If you are submitting an Open Panel proposal, have you included all four abstracts in attachment?

No, I am submitting a Closed Panel abstract

Are you a PhD student or early-career researcher?

Yes

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