

PERMANENT STRUCTURED COOPERATION – PESCO

Original article

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Abstract

The purpose of this article is to define the Permanent Structured Cooperation (PESCO) mechanism and to assess its impact on improved security and development of the European Union's defence capabilities, taking into account the following criteria: time – understood as a justification of the advisability of undertaken actions within the next few years; space – understood as an area in which a given solution will be applied; legal capabilities of enforcing the undertaken commitments; and the impact of Member States' internal policies on meeting them.

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Introduction

In 2016 Germany and France spearheaded the implementation of Permanent Structured Cooperation (PESCO). As a result, on 13 November 2017,² ministers from 23 European Union Member States signed a joint notification on Permanent Structured Cooperation. The PESCO framework is based on two components: “common commitments” and “concrete projects”.³ Only three countries do not participate in PESCO: United Kingdom (due to Brexit), Denmark (due to withdrawal from the CSDP) and Malta (due to constitutional neutrality) (Gotkowska, 2018). However, the question remains whether the Permanent Structured Cooperation mechanism will have a real impact on improved security and development of the European Union’s defence capabilities. Following the analysis of available sources it might be concluded that it may, provided that all countries participating in PESCO meet the undertaken commitments and implement the projects.

1. Background, legal basis and participation criteria

In terms of security, the European Union follows its common foreign and security policy (CFSP), which is the second pillar of the European Union introduced with the Treaty of Maastricht, officially known as the Treaty on the European Union (TEU). The Treaty states that “the common foreign and security policy shall include all questions related to the security of the Union, including the eventual framing of a common defence policy, which might in time lead to a common defence”. Therefore, strengthening European security on the basis of international cooperation became a crucial element of EU Member States’ policy. Since many of them are also members of the North Atlantic Treaty Organization (NATO), the Treaty respects their obligations under such membership, and the EU’s CFSP is compliant with NATO’s common security and defence policy.

As a result of such an approach, the Treaty of Lisbon of 2007, amending the TEU, introduced the Common Security and Defence Policy (CSDP) as an integral part of the CFSP. The CSDP specifies the security and defence actions which the EU may undertake. It also establishes permanent structured cooperation dedicated to those countries “whose military

² “Defence cooperation: 23 member states sign joint notification on the Permanent Structured Cooperation (PESCO).” European Council and Council of the European Union, press release 639/17, 13 November 2017, <https://www.consilium.europa.eu/en/press/press-releases/2017/11/13/defence-cooperation-23-member-states-sign-joint-notification-on-pesco/>. Accessed 5 January 2019.

³ “Notification on Permanent Structured Cooperation (PESCO) to the Council and to the High Representative of the Union for Foreign Affairs and Security Policy.” European Council and the Council of the European Union, <https://www.consilium.europa.eu/media/31511/171113-pesco-notification.pdf>. Accessed 5 January 2019.

capabilities fulfil higher criteria and which have made more binding commitments to one another in this area with a view to the most demanding missions [...]”.

The basis for establishing the Permanent Structured Cooperation mechanism is Article 42 and Article 46 of the Treaty on European Union as well as Protocol No. 10 on permanent structured cooperation established by Article 42 of the Treaty on European Union (hereinafter referred to as the Protocol).⁴ Article 42(6), mentioned above, establishes PESCO, while Article 46 defines its rules. Article 46 is composed of six paragraphs which specify, in listing order: rules of participation, procedure for establishing cooperation, procedure for confirming and suspending the participation of members by the European Council (hereinafter referred to as the Council), rules of withdrawal from permanent structured cooperation by a Member State and the procedure for adopting decisions and recommendations by the Council.

A Member State that wishes to participate in PESCO has to fulfil the criteria and make the commitments referred to in the Protocol, and once it complies with these requirements it “[notifies] its intention to the Council and to the High Representative” (i.e. High Representative of the Union for Foreign Affairs and Security Policy, hereinafter referred to as the High Representative).⁵ These criteria include: to “proceed more intensively to develop its defence capacities” at a national level and by participation in multinational forces, to participate “in the main European equipment programmes” and in the activity of the European Defence Agency (EDA),⁶ to “have the capacity to supply [...], either at a national level or as a component of multinational force groups, targeted combat units for the missions planned”,⁷ such as: “joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peace-keeping tasks, tasks of combat forces in crisis management, including peace-making and post-conflict stabilisation”.⁸ The commitments made by Member States include cooperating “on defence equipment” and “regularly [reviewing] these objectives, in the light of the security environment and of the Union’s international responsibilities”, bringing their defence apparatus into line with each other, taking “concrete measures to enhance the availability, interoperability, flexibility and deployability of their forces”, making good the shortfalls in the Capability Development Mechanism (CDM) as well as taking “part, where appropriate, in the development of major

⁴ Protocol (No 10) on permanent structured cooperation established by Article 42 of the Treaty on European Union, OJ C 202, 7.6.2016

⁵ Treaty of Lisbon, *op. cit.*, Article 46(1).

⁶ Protocol, *op. cit.*, Article 1a.

⁷ *Ibid.*, Article 1b.

joint or European equipment programmes in the framework of the European Defence Agency”.⁹

If a Member State submitting the notification fulfils the criteria and meets the commitments, within three months (after consulting the High Representative) the Council adopts a decision, by a qualified majority, confirming its participation.¹⁰ Such participation may be suspended if the Member State no longer fulfils the criteria or meets the commitments. The Council will take such decision by a qualified majority.¹¹

Withdrawal from PESCO is effected under notification provided to the Council which shall take note of the fact.¹²

The Council shall adopt any decisions and recommendations other than the ones provided above by unanimity.¹³

The assessment of participating Member States’ contributions with regard to meeting the commitments (and fulfilling the criteria) shall be mostly made (at least once a year) by the European Defence Agency, whose assessment may serve as a basis for the Council’s decision to suspend participation,¹⁴ and also by other countries participating in PESCO, the High Representative and their deputy, and the European External Action Service (EEAS).

2. Main goals and projects

The establishment of PESCO in 2017 was the next step in strengthening cooperation on security and defence within the EU. The ever-changing European security environment, the emergence of new challenges and threats such as cybercrime, terrorism (which is not a new phenomenon, but is now more frequent and occurs on a larger scale), cyberterrorism, mass migrations, internal conflicts and crises, or actions of the Russian Federation shaking up the European order, i.e. the spread of disinformation (fake news), hybrid warfare, the annexation of Crimea – all these factors made the 2003 European Security Strategy obsolete and led to its replacement in 2016 with the Global Strategy for the European Union’s Foreign and Security Policy, called the EU Global Strategy (Wróblewska-Łysik, 2016). The strategy defined new directions in this scope and prompted EU leaders to draw up the implementation plan on

⁸ Treaty of Lisbon, *op. cit.*, Article 43(1).

⁹ Protocol, *op. cit.*, Article 2.

¹⁰ Treaty of Lisbon, *op. cit.*, Article 46(2) and (3).

¹¹ *Ibid.*, paragraph 4.

¹² *Ibid.*, paragraph 5.

¹³ *Ibid.*, paragraph 6.

¹⁴ Protocol, *op. cit.*, Article 3.

security and defence focused on three strategic priorities: “responding to external conflicts and crises, building the capacities of partners, protecting the EU and its citizens”.¹⁵

Based on these, the Coordinated Annual Review on Defence (CARD) was launched, the Military Planning and Conduct Capability (MPCC) was set up, EU’s rapid response toolbox, including the EU battlegroups and civilian capabilities, was strengthened, and the permanent structured cooperation was established.¹⁶

PESCO is based on a modular approach. Currently it covers 34 projects,¹⁷ which deliver on the three main premises of PESCO, i.e. jointly developing defence capabilities, investing in shared projects (mainly through training and capabilities development) and enhancing the operational readiness and contribution of armed forces.¹⁸ Member States that submitted the notification are convinced that “PESCO is an ambitious, binding and inclusive European legal framework for investments in the security and defence of the EU’s territory and its citizens”¹⁹ and that it is a reflection of assuming more responsibility for issues related to security and defence in Europe. “Participation in PESCO is voluntary and leaves national sovereignty untouched”.²⁰

The project structure includes framework nations (which lead the projects), participants and observers, i.e. countries which “observe” a project and may join it when needed. 34 projects are divided into seven main areas: 1. Training, Facilities, 2. Land, Formations, Systems, 3. Maritime, 4. Air, Systems, 5. Cyber, C4ISR,²¹ 6. Enabling, Joint, 7. Space. Poland participates in seven projects: Integrated Unmanned Ground System (UGS); Maritime (semi-) Autonomous Systems for Mine Countermeasures (MAS MCM); Harbour & Maritime Surveillance and Protection (HARMSPRO); European Secure Software defined Radio (ESSOR); Cyber Rapid Response Teams and Mutual Assistance in Cyber Security; Network

¹⁵ “EU cooperation on security and defence.” European Council and Council of the European Union, <https://www.consilium.europa.eu/en/policies/defence-security/>. Accessed 6 January 2019.

¹⁶ Ibid.

¹⁷ “Permanent Structured Cooperation (PESCO) updated list of PESCO projects – Overview – 19 November 2018.” European Council and Council of the European Union, <https://www.consilium.europa.eu/media/37028/table-pesco-projects.pdf>. Accessed 6 January 2019.

¹⁸ “Defence cooperation: 23 member states sign joint notification on the Permanent Structured Cooperation (PESCO).” European Council and Council of the European Union, 13 November 2017, <https://www.consilium.europa.eu/en/press/press-releases/2017/11/13/defence-cooperation-23-member-states-sign-joint-notification-on-pesco/>. Accessed 6 January 2019.

¹⁹ Notification, *op. cit.*

²⁰ Ibid.

²¹ i.e. Command, Control, Communications, Computers, Intelligence, Surveillance and Reconnaissance.

of Logistic Hubs in Europe and Support to Operations; and Military Mobility.²² They are financed by the countries participating in PESCO and the European Defence Fund (which can finance up to 30% of project costs). For Poland, participation in PESCO (which involves obtaining EU funds for military expenses) may be an opportunity to develop its capabilities, especially in cyber security, which is crucial for the development of modern cyber forces in the Polish Armed Forces.²³

3. Assessment

In order to assess the influence of PESCO on the improvement of security and development of the European Union's defence capabilities, the criteria for such assessment must be defined. These are: time – understood as a justification of the advisability of undertaken actions within the next few years; space – understood as an area in which a given solution will be applied; legal capabilities of enforcing the undertaken commitments; and the impact of Member States' internal policies on meeting them. EU-NATO relations concerning security and defence are also of key importance. However, these have not been listed as a separate criterion, because NATO, as a military alliance, plays a leading role in shaping the European security environment and has a direct impact on the steps the EU is taking within this scope.²⁴

PESCO projects cover tasks such as improvements in interoperability, standardisation, training and situational awareness. In the age of information society where information is of key importance, taking into account the direction of EU and NATO actions – i.e. unifying systems and strengthening cooperation – these projects are justified and desirable, as they will have a real impact on improving the capabilities and resilience of Member States. In turn, regular increase in defence budgets, including expenditure on investments and on research and new technologies, is an added value, since new technologies significantly improve the efficiency of operations and their quality. This proves that these measures are advisable, taking the criterion of time into account.

²² Due to the limited size of the paper, the full list of projects with a description has not been provided.

²³ Boguszewski, Łukasz. "Finansowanie unijnych projektów PESCO w obszarze cyberbezpieczeństwa z EDF i EDIDP." *CyberDefence24*, 12 July 2018, <https://www.cyberdefence24.pl/finansowanie-unijnych-projektow-pesco-w-obszarze-cyberbezpieczenstwa-z-edf-i-edidp-analiza>. Accessed 8 January 2019.

²⁴ In recent years the EU-NATO cooperation has strengthened, which is reflected by signing a joint declaration on cooperation in 2016 and then in 2018, and continuously implementing its proposals. See: "Timeline: EU cooperation on security and defence." European Council and Council of the European Union, <https://www.consilium.europa.eu/en/policies/defence-security/defence-security-timeline>. Accessed 9 January 2018.

However, the criterion of space is more problematic. This stems from the fact that EU Member States have a different understanding of challenges and threats, varying visions of the development of the EU's security and defence policy, and their own opinions on the future of transatlantic relations.²⁵ A great example of this are the conflicting positions of France and Germany, but also Scandinavian countries and Central and Eastern European countries which have been excluded from the discussion on PESCO (Gotkowska, 2018). Western European countries perceive the southern flank of NATO as the main source of threats (terrorism, illegal migrations), while Poland sees this source in the activities of its eastern neighbour – Russia – which is the main reason for antagonism. The failure to acknowledge the defence of the eastern flank and discrimination against its countries indicates that leading EU countries (Germany and France which exert the greatest influence on shaping EU policy) treat security and defence issues selectively, which makes PESCO, taking the criterion of space into account, ineffective.

A weakness of the PESCO mechanism lies also in the absence of legal capabilities to enforce the undertaken commitments (participation in PESCO is not legally binding). This means that the only consequence of not meeting them (in accordance with the TEU) is suspension of the Member State's participation. What is more, the Treaty does not provide for penalties or the exclusion of a member, but only for its voluntary withdrawal. Such a legal framework significantly weakens the whole mechanism, because Member States declaring their participation in PESCO may, at any time, withdraw from it or cease to carry out its tasks as required under project implementation. As a result, other Member States could become discouraged and also decide to opt out. Therefore, there exists no legal basis for the establishment of a permanent and efficient mechanism. Nevertheless, everything depends on the political will of the Members States.

The decision to participate in PESCO is a manifestation of a country's foreign policy which depends on internal policy, which in turn is more or less dependent on current sentiments in society and consent (or lack thereof) to the government's actions. Governments may therefore find themselves in a prisoner's dilemma, and "public opinion" may force them to move away from strengthened cooperation in the areas of security and defence. There is also a chance that if the ruling party changes after elections, it will not want to continue the policies of its predecessors and, consequently, withdraw from PESCO. In the context of conflicting visions of challenges and threats in Europe, growing internal conflicts and

²⁵ Different visions of the development of EU's CSDP and the future of transatlantic relations are interlinked, as

international disputes, as well as the rise of nationalism and corresponding popularity of Eurosceptic parties, this scenario seems likely.

Conclusion

At the current stage, the Permanent Structured Cooperation mechanism, despite its many flaws, has the potential to have a real impact on the improvement of security and development of the European Union's defence capabilities. This mainly stems from the will of Member States, which is manifested in the expansion of the number of projects from the initial 17 to 34 planned in November 2018. The thematic scope of the projects and continuous efforts to strengthen the cooperation between EU and NATO (despite different attitudes towards its leader – the United States of America).²⁶ Therefore, it may be expected that if these tendencies continue and the Member States participating in PESCO meet the undertaken commitments and implement the projects, the initiative will be a success – which proves the argument put forward in this paper.

they are based on the attitude towards the United States and its role in NATO.

²⁶ Ibid., p. 16-18.

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