The EU as a Regional Actor: A Framework for Analysis

Sijbren de Jong, Steven Sterkx & Jan Wouters
EU-GRASP

Changing Multilateralism: the EU as a Global-regional Actor in Security and Peace, or EU-GRASP in short, is an EU funded FP7 Programme. EU-GRASP aims to contribute to the analysis and articulation of the current and future role of the EU as a global actor in multilateral security governance, in a context of challenged multilateralism, where the EU aims at “effective multilateralism”. This project therefore examines the notion and practice of multilateralism in order to provide the required theoretical background for assessing the linkages between the EU’s current security activities with multi-polarism, international law, regional integration processes and the United Nations system.

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**Abstract**

The EU enacts its security policy on different levels and through various frameworks and structures of cooperation. One of these levels is the regional dimension (i.e. within the Union) where the EU acts as a regional security actor. This paper puts forward a framework for analysis of this regional dimension and the various elements underpinning EU security policy in this spatial realm. The framework consists of an analysis of (i) the institutional dimension underpinning a security issue, (ii) the EU's policy output, and (iii) an evaluation of the Union's institutional and output dimension; this ‘check-up’ of EU policy through the assessment of its coherence, the current levels of accountability, and the legitimacy of EU action enables a reflection on the merits of EU policy in the security field.

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The EU as a Regional Actor: A Framework for Analysis

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Introduction

Six different security issues are distinguished within the present study: (i) regional conflict, (ii) terrorism, (iii) weapons of mass destruction, (iv) energy security and climate change, (v) human rights, and (vi) migration. These security issues are addressed by the EU at various intersecting levels and by different means and policy-instruments, ranging from the bilateral (the growing dialogues between the EU and single States in a bilateral framework), regional (the EU as a regional actor), interregional (the development of interregional dialogues between the EU and other regional organisations), and the global level (the link between the EU and the UN on the one hand, and the EU and other multilateral organisations on the other).

The aim of this paper is to provide an analytical framework to assess the manner in which the EU acts as a regional actor in the field of security (i.e. within the EU) in conjunction with its Member States. This assessment consists of an analysis of (i) the institutional dimension underpinning a security issue, (ii) the EU’s policy output, and (iii) an evaluation of the Union’s institutional and output dimension; this ‘check-up’ of EU policy through the assessment of its coherence, the current levels of accountability, and the legitimacy of EU action, enables a reflection on the merits of EU policy in the security field.

1. The institutional dimension should be understood as reflecting the division of competences between the European Community (EC) and its Member States in the respective issue areas, as laid down in the Treaties and derived from the relevant case law of the European Court of Justice (ECJ), the decision-making method(s) employed (community method or

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1 An earlier version of this paper was presented at an EU-GRASP workshop in July 2009 hosted by UNU-CRIS.
intergovernmental), an indication of the amount of cross-pillarisation that occurs, and a brief overview of the changes the Treaty of Lisbon will or is likely to bring to EU policy in the security field. This institutional dimension serves as an important underpinning of the Union’s policy output and is thus a crucial element of this analysis.

2. The analysis of the Union’s policy output consists of providing an overview of the key objectives that the policy is set to fulfil, the most important instruments that have been adopted at the Community level, and a brief analysis of the external dimension underpinning the EU internal security policy.

3. The third step of the analysis can be seen as performing a check-up of the EU policy to date, by evaluating the Union’s institutional and output dimension by means of various criteria. First, EU security policy is analysed for coherence to see if EU external action is both consistent with and provides for synergy effects between its various external policies. Secondly, the presence of checks and balances is looked at, providing an overview of the current levels of accountability for EU policy. Finally, the legitimacy of EU action in the security field is assessed.

These three steps combined serve to generate an accurate overview of the current state-of-play of EU (external) action in the field of security. This ‘mapping’ exercise of the regional dimension of EU action can serve in itself as the basis for the selection of relevant case studies for further analysis.

The Institutional Dimension

A description of the division of competences between the Community and its Member States gives a clear overview of the respective competences per institutional actor. However, as in all areas of EC competence, the scope and exercise of Community competence is, by its very nature, subject to continuous development. A general overview of the competences division per security issue in this respect can be no more than a temporary reflection of the state of play at a given time, based on a comprehensive analysis of Community legislation.

The pillar structure introduced by the Maastricht Treaty functions on the basis of different decision-making procedures and different roles for the institutional actors involved. The first pillar policy-making regime is the ‘Community method’, which was introduced by the Maastricht Treaty

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This method rests on the principle of a common interest, which actors define, defend, promote and represent. The Community method is not synonymous with supranationalism, which would imply that Member States lose complete control over policy-making. Rather, it is operationalised through a system designed to maintain institutional equilibrium between a supranational Commission, which has a key role in defining and defending common interests; a Council of Ministers with representatives of the Member States, which decides by majority voting on a wide range of decisions; a directly elected European Parliament (EP); and a supranational ECJ (Keukeleire & MacNaughtan 2008: 67). The EP has an active role within the Community method and the ECJ assures a uniform interpretation of Community law.

The second policy-making regime is the ‘intergovernmental method’. The basic principle of this method is that governments retain control over policy-making. This is achieved in two ways. Through intergovernmental cooperation governments do not transfer competences to the EU, but within the EU framework cooperate in the elaboration of foreign policy and coordinate their national foreign policies. Intergovernmental integration, on the other hand, implies that Member States have transferred competences to the EU, but that, within the Union’s institutional framework, governments retain strict control over policy-making through the dominant position of the Council and the application of the unanimity rule in its decision-making. The intergovernmental method is predominant in the second pillar relating to the Common Foreign and Security Policy (CFSP) and, European Security and Defence Policy (ESDP), and in the third pillar relating to Police and Judicial Cooperation in Criminal Matters (PJCCM) (Keukeleire & MacNaughtan 2008: 67; Schalk et al. 2007: 246; Denza 2002). The EP’s role is purely consultative within the intergovernmental method and the ECJ plays only a minor role.

EU policies are not easily divided between the pillars. For many issues of security, both policy-making regimes are involved, with competences, actors, procedures and instruments from both pillars being used. There are also gradations within each pillar and within each policy-making regime in terms of the role of the various institutions and of the Member States, the decision-making procedures, the available instruments, and so on. Both formally and in practice, pillars and methods are blurred, with the occurrence of ‘cross-pillarisation’ being no exception (Stetter 2007, 2004; Sicurelli 2008; Bendiek 2006).

One of the most important elements of the Lisbon Treaty is the formal abolition of the pillar structure and the explicit legal personality given to the European Union. The Lisbon Treaty further
strengthens the involvement of the EP which will have its effects on EU policy output. A short overview of the likely changes the Lisbon Treaty will or is likely to bring to EU policy in the security field forms the final part of the analysis of the institutional dimension.

An analysis of these three elements combined serves to generate an accurate overview of the institutional dimension that underpins EU policy within each of the identified areas of security.

**EU Policy Output**

*Goals & Achievements*

The Union’s policy output is largely formed by its goals and achievements. The type and scope of (legal) instruments that are adopted at Community level serve as a useful benchmark to describe the output of policy. A comprehensive overview of the most important (Framework) Directives, Regulations, Strategies, etc. is given which serves to frame the EU policy with respect to each security issue and gives an impression of the progress the EU has made in terms of policy adoption as well as on which instruments its policy rests.

*External dimension of internal security*

The external dimension of EU internal security and the explicit linking of the protection of the EU’s internal security to external relations was officially put on the agenda at the Tampere Summit in 1999. In the Presidency Conclusions the Member States recognised that the realisation of the internal Area of Freedom Security and Justice also had an external aspect. The Presidency Conclusions state that ‘all competences and instruments at the disposal of the Union, and in particular, in external relations must be used in an integrated and consistent way to build the Area of Freedom, Security and Justice’ (AFSJ) (European Council 1999). It was further mentioned as a priority that cooperation should be developed with candidate countries and neighbouring countries in the Balkans. Outside of the neighbourhood, cooperation should be targeted at countries considered as sources of migrants and illegal trafficking. Accordingly, threats such as international terrorism, transnational organised crime and drug trafficking need to be addressed jointly with third countries. The Council and the European Commission were mandated to establish objectives and working structures for this new aspect of the Justice and Home Affairs (JHA) domain (European Council 1999). The aim of enhancing relations with its neighbours in order to ‘avoid new dividing lines in Europe and to promote stability and prosperity beyond the new borders of the Union’ goes back to the European Council meeting in Copenhagen of December 2002 (European Council 2002).
The necessity to define its future borders is a challenge for the Union which was put even more firmly on the agenda with the 2004 eastern enlargement (Lavenex 2004: 682). The protection of the EU's internal security from outside threats has since then seen a surge in policy initiatives.\(^3\)

Explanations put forward for this phenomenon most commonly revolve around the changing post-Cold War security environment and the ensuing disappearance of the traditional sharp divide between internal and external security (the so-called 'internal-external security nexus'). Threats emanating from the possible invasion by neighbouring armies decreased relative to the increased fear of seeing the borders being permeated by all sorts of 'soft security threats', including, but not limited to, irregular migration, spill-over effects of regional conflicts, terrorism and disruptions in energy supply. It is these 'soft security risks' that constitute the background of the enlarged EU’s enhanced engagement to the east and the south.\(^4\)

The new impetus given to European integration in the 1990s has also led to a 'revival' of the concept of the EU as a civilian power (Télo 2001; Whitman 2002; Lavenex 2004: 684). The concept, though lacking a clear definition, stresses the ‘soft’ power exercised by the EU, which basically consists in the external projection of its internal virtues through political-economic (Rosecrance 1998) and normative means (Nicolaidis & Howse 2003). Such endeavours to extend parts of the Union’s *acquis communautaire* beyond the circle of the Member States towards their immediate neighbourhood resulted, amongst others, in the adoption of the JHA External Strategy by the Council in 2005 (European Council 2005). These endeavours to extend the regulatory scope of the *acquis* may be conceived of as a form of external governance\(^5\) in which internal and foreign policy goals come together. Rule-extension towards non-Member States may follow functional needs when it is seen to increase the efficiency and problem-solving capacity of internal policies.


\(^5\) External governance is to be understood as the gradual expansion of EU policies to associated non-Member States. In contrast to cooperation under an international agreement or convention, external governance takes place when parts of the *acquis communautaire* are extended to non-Member States. The outer contours of external governance include *quasi-membership*, such as comprehensive forms of association with EEA countries and the bilateral treaties concluded with Switzerland, *accession association* for the encompassing framework of enlargement negotiations with, for example, Turkey and the countries of the Western Balkans, *neighbourhood association* with the Mediterranean and the new eastern neighbours, *development cooperation* with the ACP countries, and *transatlantic cooperation* with the USA and Canada.
Conversely, it may serve foreign policy goals geared at stabilising the neighbourhood of the EU. Furthermore, this attempt to extend the EU’s legal boundary is not only a benevolent projection of acquired civilian virtues but also a more strategic attempt to gain control over policy developments through external governance (Lavenex 2004: 681, 685).

The JHA External Strategy adopted by the Council in 2005 constituted an attempt to achieve a more consistent and coherent policy output and to overcome the predominantly piecemeal approach that had materialised so far. It aimed to organise existing instruments around certain key principles and guidelines. One of these is the ‘geographical prioritisation’, whereby all internal security issues should be addressed with countries with which relations are a priority for the EU (i.e. candidate and neighbouring countries). Cooperation with other countries should, on the other hand, be limited to specific issues (e.g. drugs in Latin America). The Strategy also introduced the concept of ‘partnership’ with third countries in the field of JHA. This principle had previously been used as a guideline for the establishment of the external dimension of migration. The 2005 Strategy, however, envisaged the creation of partnerships in the fields of border management, law enforcement cooperation on combating terrorism, organised crime, trafficking of human beings and money laundering, as well as the fight against corruption, judicial cooperation and reform of the judiciary (Wolff et al. 2009: 14).

**Evaluation of the Union’s Institutional and Output Dimension**

The third part of the analysis should be seen as performing a kind of ‘check-up’ on the coherence and consistency of, the available checks and balances on, and the legitimacy of EU policy in the security area. In other words, how ‘healthy’ is EU policy in the security field and does it logically connect to policy initiatives in other areas?

**Coherence**

Coherence has an ambiguous character: it appears to have a primarily institutional/political character. Gauttier (2004: 24), for example, argues that in the particular context of EU foreign policy it does not designate a specific legal concept. According to Tietje (1997: 211) however, it is “one of the main constitutional values of the EU”. Coherence points to more than a somewhat vaguely defined objective of good institutional and policy practice, and can be found in a number of legal provisions and principles (Hillion 2008: 12-13). The term provides a context and rationale for the operation of fundamental legal principles governing the relations between Member States and
the EU institutions and between the institutions themselves, including the principle of primacy, the
duty of cooperation and the principle by which the Community *acquis* is protected from being
affected by the exercise of CFSP powers (Cremona 2008: 13).

The concept of coherence was first introduced into primary Community law by the Single European
Act (SEA).6 Two aspects of the principle of coherence can be distinguished: vertical coherence
between the EU and its Member States, and horizontal coherence between the different pillars of
the EU.7 The English version of the Treaty on European Union (TEU) uses the term ‘consistency’ in
Article 3, whereas all the other languages refer to the term ‘coherence’ (Tietje 1997: 211-213).
However, these two concepts are not interchangeable; they should rather be understood as

Horizontal coherence encompasses both a negative and a positive criterion:

1) The absence of contradictions within the external activity in different areas of foreign policy
   (consistency; negative criterion);

2) The establishment of a synergy between these aspects (coherence; positive criterion).

The requirement of consistency forms the first part of horizontal coherence. Combining the static
concept of consistency (a policy holds or does not hold contradictions) with the idea of synergy
enables one to measure the level of coherence that has been reached with respect to European
foreign policy as a whole (Gauttier 2004: 26). The aim is therefore to analyse the extent to which
the various external policies and activities of the EU are logically connected and mutually
supportive. Analysing horizontal coherence links up to the analysis of the institutional dimension
and the policy output underpinning each security issue, as the focus lies on whether the
institutional actors act in a consistent and coherent manner, as well as whether the policy output is

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6 Paragraph 5 of the Preamble states: ‘Member States stress the need to speak ever increasingly with one voice and to act
with consistency and solidarity’. Furthermore, Article 30(2)d states on the one hand that ‘the High Contracting Parties
shall make every effort in avoiding any action or position adversely affecting their effectiveness as a consistent force in
international relations or within international organizations’. On the other hand, Article 30(5) states that ‘the external
policies of the European Community and the policies adopted by the European Cooperation Policy shall be consistent. The
Presidency and the Commission, each within its own competence, shall be responsible for seeking and maintaining this

7 See the definition given by Brian White of European Foreign Policy in its entirety as an ‘interacting foreign policy
system’, made up of three types of policies stemming from the Community, the Union and the Member States, (2001: 24).
The idea of coherence takes on a third dimension insofar as the weight of the European Community in the international
arena must be evaluated in light of EU and member State activity in various multilateral frameworks (UN, NATO, OSCE,
etc.), as well as the coordination between these different international organisations. This can also be referred to as
international coherence, or the ‘inter- or cross-organisational dimension’ of the idea of coherence (Missiroli 2001: 184).
consistent and creates synergy between the different policy areas.\textsuperscript{8} For the purpose of this analysis, the focus shall be on horizontal coherence.

\textbf{Accountability}

Accountability has often come to serve as a conceptual ‘blanket’ that covers various other distinct concepts, such as transparency, equity, democracy, efficiency, responsiveness, and integrity (Mulgan 2003). Koppell (2005: 94) distinguishes no less than five different dimensions of accountability – transparency, liability, controllability, responsibility, and responsiveness – that are each icons and ‘umbrella’ concepts in themselves. The most concise description of accountability would be: ‘the obligation to explain and justify conduct’. This implies a relationship between an actor and a forum (Politt 2003: 89). According to Bovens (2007: 450), accountability should be seen as a “relationship between an actor and a forum, in which the actor has an obligation to explain and justify his or her conduct, the forum can pose questions and pass judgement, and the actor may face consequences”.

The \textit{actor} can be either an individual, an official or civil servant, or an organisation, such as a public institution or an agency. The significant other, the \textit{accountability forum}, can be a specific person, such as a superior, a minister or a journalist, or it can be an agency, such as a parliament, a court or an audit office. The relationship between the forum and the actor can have the nature of a principal-agent relationship – the forum being the principal, for example a parliament that has delegated authority to a minister, the agent, who is held to account himself regularly about his performance in office (Bovens 2007: 450-451). This is often the case with political forms of accountability (Strom 2000: 261).

The actual account giving or the relationship between the actor and the forum usually consists of at least three elements or stages. It is in the first place crucial that the actor is obliged to \textit{inform the forum about his or her conduct}, by providing various sorts of data about the performance of tasks, about outcomes or procedures. In the second place, there needs to be a possibility for the forum to interrogate the actor and to \textit{question} the adequacy of the information or the legitimacy of the conduct. Thirdly, the forum may \textit{pass judgement} on the conduct of the actor. It may approve of an

\textsuperscript{8} Contrary to horizontal coherence, vertical coherence does not link up to the analysis of the institutional and policy dimension in this paper, as vertical coherence encompasses the extent to which the various external policies and activities of the Member States are logically connected and mutually supportive of the EU’s institutions, agencies, and representatives. Such an analysis is not subject to the EU’s role as a regional actor in security. EU policies are the key focus of this part of the study, and as such Member States’ individual policies, irrespective of their capacity as EU Member States, do not form part of the analysis at this stage.
annual account, denounce a policy, or publicly condemn the behaviour of an official or an agency. In passing a negative judgement, the forum frequently imposes sanctions of some kind on the actor. The possibility of sanctions – not the actual imposition of sanctions – makes the difference between non-committal provision of information and being held to account (Mulgan 2003: 9). Sanctions should be understood here as that the actor “may face consequences” (Bovens 2007: 451).

Accountability hinges upon a number of factors. In the first place it is important to know to whom account is to be rendered. Clarifying this determines the type of accountability and corresponding forum to which the actor is required to render account. With respect to political accountability (in parliamentary democracies), public servants and their organisations are accountable to their minister, who must render political account to parliament (Flinders 2001). In the EU, it is the Commission and the Council who in turn render account to the EP in particular instances. It is this political accountability that forms the focus of this analysis.

Accountability is important to provide a democratic means to monitor and control government conduct (democratic check) (Aucoin & Heintzmann. 2000: 45). The question pivotal to this point is whether the accountability arrangement increases the possibilities open to the voter, parliament or other representative bodies to control the executive power. Together political/democratic accountability thus become the key evaluation criteria to assess the degree to which an accountability arrangement or regime enables democratically legitimised bodies to monitor and evaluate executive behaviour, and to induce executive actors to modify that behaviour in accordance with their preferences (democratic/political accountability) (Bovens 2007: 465).

In sum, the assessment of the accountability arrangements as present within the EU with regard to the various security issues takes place according to the role played by the EP, subject to the definition of political/democratic accountability given above.

**Legitimacy**

The claim that the EU is insufficiently democratic and suffers from a legitimacy deficit is commonplace in the literature on European integration. However, prior to assessing the legitimacy of the EU, it should be determined which criteria are employed for this purpose. Attempts to identify appropriate legitimation criteria for the EU have produced a debate between those who

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argue that the EU should be held to the same liberal-democratic standards as political authority in the nation-state, and those advocating a different set of principles (Ehin 2008: 620). An example of such an argument that is in favour of applying the same standards is put forward by David Beetham and Christopher Lord (1998), who state that democracy, shared identity and effective performance constitute irreducible requirements that political authority in liberal-democratic societies must meet in order to be considered legitimate. As the EU increasingly performs similar functions to the nation-state, and produces authoritative decisions that have direct effect on European citizens, it should be held to the same liberal democratic standards (Beetham & Lord 1998).

At the other end of the spectrum are the views emphasising the differences between political authority at the national and European level, conceptualising the Union as an international organisation (Moravcsik 2002; 2004) or a regulatory regime (Majone 1994; 1998). Such political entities, it is argued, do not need to develop structures of representative democracy or provide shared identity in order to be legitimate. Instead, the intergovernmentalist and technocratic aspects of the EU emphasise legitimacy by results, arguing that effective performance constitutes the main criterion for assessing the legitimacy of the Union (Ehin 2008: 620).

On the one hand, assertions that the EU suffers from a legitimacy deficit are substantiated by references to the post-Maastricht trend of diminishing public support in European-issue referendums, low and declining turnout at EP elections, support for anti-EU parties, and participation in various protest activities (Franklin et al. 1994; Eichenberg 1993; Blondel et al. 1998; Gabel 2003). On the other hand, the EU's legitimacy deficit is explained in terms of the failure of the European political order to meet certain commonly accepted criteria of good governance such as democracy, accountability, efficiency, transparency and so on (Banchoff & Smith 1999; Lord 2004; Beetham & Lord 1998; Héritier 2003).

Weber (1978) defines legitimacy as the subjective belief in the validity of an order, thus effectively reducing legitimacy to public support. In the Weberian tradition, legitimacy is seen as an empirical social fact, and the concept is disconnected from normative debates on what constitutes rightful authority (Grafstein 1981). A social or political order is thus legitimate if the members consider its rules both appropriate and binding. Legitimacy then generates voluntary compliance with costly rules because of a logic of appropriateness, irrespective of either sanctioning mechanisms or the utility of the rule for those who have to comply (Risse & Kleine 2007: 72). The notion of legitimacy is not without controversy (Schaar 1981; Habermas 1996; Coicaud 2002). In particular, the focus
on public perceptions, as opposed to the actual character of the regime, is seen as distorting the essential meaning of legitimacy (Grafstein 1981: 456).

In this context, a distinction needs to be made between two main aspects of legitimacy: (i) input and (ii) output legitimacy (Scharpf 1999; Zürn 1998; 2000). Input legitimacy refers to the probability that those being ruled have some say in the process of rule-making itself. At a supranational level, those in power must be held accountable in a way that institutionalises crucial features of representative democracy without simply replicating them. The analysis of the input legitimacy has thus strong links with the assessment of the Union’s accountability (Risse & Kleine 2007: 72). When assessing the democratic character of the decision-making process, reference can thus be made to the criteria of political/democratic accountability as identified in this paper. However, one element that needs to be added is public opinion. With the help of Eurobarometer surveys we can assess public opinion on issues of security. If security issues rank highly on the public agenda, this essentially provides the EU with a mandate to pursue effective policy in those areas of security that are valued highly and qualify as an important element of input legitimacy.

The second and most crucial aspect of legitimacy is output legitimacy. This concerns the effectiveness of the policy-making process. The question is whether political decisions taken at the EU level effectively serve to improve the Union’s problem solving capacity. We deal with security issues, which are urgent matters on the EU agenda that have to be dealt with rapidly and require effective policy. As an effective EU policy cannot merely be taken for granted, the output legitimacy weighs heavily on the assessment of the legitimacy of EU policies in the realm of security.

**Conclusion**

In sum, box 1 (see next page) provides an overview of the criteria that can serve as a basis for the analysis of the three different dimensions underpinning EU security policy. The three elements of the framework taken together enable the analysis of the regional dimension of EU security policy. This analysis in turn can serve as the basis for the selection of cases for further analysis in the course of the EU-GRASP project.
Box 1: Summary of criteria

**Institutional Dimension:**

- Division of competences between the European Community and its Member States;
- Decision-making method(s) employed;
  - Cross-pillarisation;
- Impact of the Treaty of Lisbon;

**EU Policy Output:**

- Policy instruments and adopted legislation;
- External dimension of EU internal security policy;

**Evaluation of EU Policy Output:**

- Coherence: focus on horizontal coherence:
  - The absence of contradictions within the external activity in different areas of foreign policy;
  - The establishment of a synergy between these aspects;

- Accountability: political/democratic accountability:
  - The degree to which an accountability arrangement or regime enables democratically legitimised bodies to monitor and evaluate executive behaviour and to induce executive actors to modify that behaviour in accordance with their preferences. Actor focused on:
    - The European Parliament;

- Legitimacy:
  - *Input legitimacy:* the probability that those being ruled have some say in the process of rule-making itself. For a specific criterion, see the section on accountability:
    - Extra indicator: public opinion (Eurobarometer);
  - *Output legitimacy:* whether political decisions taken at EU level effectively serve to improve the Union’s problem solving capacity.
    - Effectiveness of EU policy-making
References

Official Documents


Doctrine


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