

Policy Paper

A Safety Belt for the EU's Capacity to Act

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Authorising Enhanced Cooperation in CFSP by Qualified Majority: The Case for the Passerelle Clause

Why you want to read this paper...

- ▶ Authorising enhanced cooperation in CFSP by qualified majority could provide a strategic safeguard against disruptive vetoes, allowing willing Member States to pursue joint action within the EU framework.
- ▶ The proposal combines national discretion over participation with greater collective capacity to act, offering a potential basis for broader political support than a general extension of QMV in CFSP.
- ▶ A targeted application of the CFSP passerelle clause under Article 31(3) TEU offers a promising route without Treaty amendment, subject to legal clarification and the exclusion of decisions having military or defence implications.
- ▶ The political window ahead of national elections in 2027 provides an opportunity to secure unanimous agreement on this limited reform, whose availability could discourage obstruction and strengthen incentives for compromise.

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Executive Summary

The instrumental use of national vetoes to secure concessions on unrelated policy files has exposed a structural vulnerability in the European Union's capacity to sustain coherent and effective external action. In the Common Foreign and Security Policy (CFSP), the requirement of unanimity allows an individual Member State to obstruct both ordinary decision-making and the authorisation of enhanced cooperation through which willing Member States could pursue joint action within the Union. The prospect of renewed obstruction following national elections in 2027—presidential and parliamentary elections will take place in France, while parliamentary votes will be held in Estonia, Finland, Greece, Italy, Poland, Slovakia—lends particular urgency to establishing safeguards that can command political agreement and be implemented through existing Treaty provisions.

This paper proposes introducing qualified majority voting (QMV) specifically for decisions authorising enhanced cooperation in CFSP under Article 329(2) TFEU. It advances a legal case for achieving this through a targeted application of the CFSP passerelle clause under Article 31(3) TEU. A unanimous European Council decision would establish QMV as the default rule for this category of authorisation decisions, subject to the exclusion of decisions having military or defence implications. The reform would thereby create a standing fallback mechanism through which willing Member States could obtain authorisation to act within the Union's institutional and legal framework when the Treaty conditions for enhanced cooperation are met.

The proposal's political added value derives from its accommodation of national foreign policy autonomy alongside the collective interest in preserving the Union's capacity to act. Member States would retain discretion over their participation in individual arrangements, and the acts adopted within enhanced cooperation would bind only participating states. Governments could therefore support the reform while maintaining their opposition to a broader extension of QMV that would require them to implement foreign policy decisions adopted against their position or curtail their ability to block Union action contrary to their fundamental national interests. This combination offers a basis for assembling a wider coalition for reform, with non-participation accompanied by acceptance that others may proceed under the conditions and safeguards established by the Treaties.

Enhanced cooperation also provides an institutional framework for reconciling differentiation with the coherence of European integration. It anchors joint action in the framework of EU law, preserves the Treaty protections afforded to non-participating Member States, and remains open to subsequent participation. These characteristics offer significant advantages where sustained foreign and security policy engagement depends on institutional continuity, legal stability and consistency with the Union's wider policies.

The legal argument rests on the integrated framework of TEU and TFEU covering enhanced cooperation, established by Article 20 TEU, the substantive connection between Article 329(2) TFEU

and CFSP, and on the functional policy content of constitutive authorisation decisions. Considered together, these elements support an interpretation of Article 31(3) TEU that encompasses the authorisation of enhanced cooperation in CFSP. The general passerelle clause under Article 48(7) TEU remains an alternative route, although its six-month parliamentary objection period makes it more demanding within the available political timeframe.

The immediate policy priority is to translate this legal and political case into a concrete European Council initiative, supported by an assessment from the Council Legal Service and consultations among interested governments. The proposed reform would remove a central procedural obstacle to differentiated CFSP action while preserving national discretion over participation. Its adoption would establish a strategic safeguard against disruptive veto behaviour and provide a foundation for further decision-making reform. The present political window should be used to advance this initiative before renewed obstruction makes such a safeguard both more necessary and more difficult to establish.

The Way Forward...

1. Clarify the legal basis.

- ▶ Seek an assessment from the Council Legal Service on applying Art. 31(3) TEU to the authorisation of enhanced cooperation in CFSP.

2. Build political support.

- ▶ Initiate consultations among interested Member States to explore the prospects for unanimous agreement in the European Council.

3. Act before the political window closes.

- ▶ Advance a concrete initiative ahead of the 2027 elections to strengthen the EU's capacity to act without Treaty amendment.

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1. A Narrow Window to Safeguard the Union's Capacity to Act

Over the past decade, the European Union's capacity to act has come under significant pressure from the emergence of illiberal forces within its Member States. These political actors and the governments they lead have not only pursued policies that stand in clear conflict with the Union's founding values, enshrined in [Article 2 TEU](#), contributing to the erosion of democracy and the rule of law; they have also frequently used their veto power to exert political leverage in policy areas where decision-making in the Council remains subject to unanimity, raising serious questions of compliance with the duty of sincere cooperation.¹

Such behaviour may arise from genuine differences in strategic assessments and policy objectives, or from the deliberate linkage of otherwise distinct policy issues ("issue linkage"). In the latter case, one policy area is effectively held hostage to secure concessions on another file of particular importance to the illiberal actor concerned.²

While this pattern has also manifested itself in institutional matters—as illustrated by Poland and Hungary's blockade of the Multiannual Financial Framework (MFF) in 2020, aimed at eliminating the proposed rule of law conditionality—its most emblematic and enduring manifestation has been in the field of the Common Foreign and Security Policy (CFSP).³

Since at least 2014, the Hungarian government under Prime Minister Viktor Orbán regularly engaged in veto diplomacy within the Council of the European Union, complementing its multivectoral foreign policy and strategic engagement with Russia and the People's Republic of China.

Hungary repeatedly obstructed major EU instruments providing financial support to Ukraine, including efforts to secure agreement on the €50 billion Ukraine Facility in 2023 and the implementation of the €90 billion EU loan agreed in 2025 to support Ukraine in 2026 and 2027. It also blocked successive tranches of funding under the European Peace Facility intended to reimburse Member States for the costs of military assistance to Ukraine, while regularly delaying or diluting EU sanctions packages targeting Russia.⁴ To a lesser extent, Budapest applied the same approach in its relations with Beijing, defending positions favourable to China in EU deliberations on Xinjiang, Hong Kong and the South China Sea, and at times blocking or weakening common European statements.⁵

¹ [Peter van Elsuwege, "How Viktor Orbán Challenges the EU's Common Foreign and Security Policy", *Verfassungsblog*, 9 July 2024.](#)

² [Julina Mintel & Nicolai von Ondarza, "More EU Decisions by Qualified Majority Voting – but How? Legal and political options for extending qualified majority voting", *SWP Comment 2022/C 61. qualified majority voting*, SWP Comment 22022/C 61.](#)

³ Antonia Baraggia and Matteo Bonelli, "Linking Money to Values: The New Rule of Law Conditionality Regulation and Its Constitutional Challenges", *German Law Journal* 23(2) (2022), 131–156.

⁴ András Rácz, „Krieg, Kurswechsel, Kontinuität. Ungarns Ukraine- und Russlandpolitik“, *Osteuropa* 4–5/2022.

⁵ Erik Brattberg et al., *China's Influence in Southeastern, Central, and Eastern Europe: Vulnerabilities and Resilience in Four Countries*, Carnegie Endowment for International Peace, 2021.

Particularly in relation to Russia and Ukraine, Hungary's use of vetoes at times significantly constrained the EU's strategic capacity to act.

The possibility that future illiberal governments in other Member States might adopt the same strategy of veto diplomacy to exert leverage over EU institutions lends urgency to reform.

The window between Hungary's April 2026 elections, which brought about the country's redemocratisation process and a constructive reorientation of its foreign policy, and the French presidential elections in April-May 2027 should therefore be used to address the most fundamental flaws and shortcomings of EU decision-making rules. The objective should be to safeguard the functioning and resilience of the Union's decision-making processes and, consequently, its capacity to act.

The Hungarian election results have not, however, altered the fundamental political preconditions for decision-making reform, particularly in the field of the Common Foreign and Security Policy (CFSP). A critical mass of Member States remains opposed to the introduction of qualified majority voting (QMV) in CFSP.

Neither the political support nor the time required for Treaty reform involving ratification is currently available. The first politically feasible opportunity for a limited Treaty amendment may arise in conjunction with the ratification of the next accession treaty.⁶ Both the timing of its signature and the duration of the subsequent ratification process, however, remain uncertain.

From a procedural perspective, the clearest route to reform without amending the Treaties is the existing CFSP passerelle clause under [Article 31\(3\) TEU](#).⁷

This provision allows the European Council, acting unanimously, to extend qualified majority voting to further areas of CFSP decision-making, excluding decisions having "military or defence implications" under [Article 31\(4\) TEU](#).⁸

⁶ While, based on [Article 49 TEU](#), amendments to the Treaties through an Accession Treaty should be limited in scope to what "such admission entails", the Franco-German Working Group on Institutional Reform argued in this regard that accession treaties can be seen as genuine options for Treaty reform, as improving the EU's capacity to act is closely linked to enlargement itself. See: [Sailing on High Seas: Reforming and Enlarging the EU for the 21st Century. Report of the Franco-German Working Group on EU Institutional Reform, 2023.](#)

⁷ Art. 31(3) TEU : "The European Council may unanimously adopt a decision stipulating that the Council shall act by a qualified majority in cases other than those referred to in paragraph 2."

⁸ See also: Ramses A. Wessel and Viktor Szép, The implementation of Article 31 of the Treaty on European Union and the use of Qualified Majority Voting: Towards a more effective Common Foreign and Security Policy?, European Parliament, PE 739.139, 2022. and Silvia Kotanidis, Passerelle clauses in the EU Treaties: Opportunities for more flexible supranational decision-making, European Parliamentary Research Service, PE 659.420, 2020.

The political conditions for activating this clause nevertheless remain unfavourable. Established in 2023, the Group of Friends on Qualified Majority Voting⁹ currently comprises only 11 members, and its membership has contracted during 2026, with Slovenia moving from member to observer status following the March elections. Support among Member States thus remains short of the unanimity required in the European Council. Since its establishment, the group has been unable to build an effective coalition for reform, and no discernible opportunity for a broader political bargain has emerged on the political horizon.

Under these circumstances, the short-term policy goal should be defined as the identification and introduction of a decision-making modality that allows for the introduction of QMV in new areas of CFSP and might thereby help preserve the EU's capacity to act in the face of instrumental blockades by one or several Member States not honouring the obligation of sincere cooperation, while remaining sufficiently limited and distinct from a general QMV rule introduced through the CFSP passerelle clause under Article 31(3) TEU. At the same time, pursuing a broader introduction of QMV in CFSP can and must be retained as a medium- or long-term goal by the "Friends of QMV Group".

This paper seeks to address this challenge by identifying politically and legally feasible avenues for reform that meet four criteria: a) they can secure Member States' consent as long as the political balance within the European Council and governments' declared commitment to a Union capable of acting effectively remain unchanged ahead of the high-stakes national elections in 2027; b) they can be implemented through existing Treaty provisions, without Treaty amendment; c) they can make a meaningful contribution to the resilience of EU decision-making and the Union's capacity to act; and d) they can ideally initiate and anchor a substantive reform process, paving the way for further, deeper Treaty reform when time and political circumstances permit.

2. Flexible Cooperation: Advantages and Procedural Constraints

If introducing QMV as the general rule for CFSP decision-making through the passerelle clause under Article 31(3) TEU remains politically unviable, preserving the EU's capacity to act in the face of another disruptive Member State will require recourse to flexible forms of cooperation, whether through enhanced cooperation within the Treaty framework or intergovernmental arrangements outside it.

There are compelling arguments in favour of both formats. On the one hand, intergovernmental arrangements, such as a "Coalition of the Willing" or the E5+ format, can encompass essential military and defence dimensions that fall outside the scope of QMV-based CFSP decision-making under Article 31(4) TEU. Moreover, organising cooperation outside the EU's institutional and legal framework avoids, at least formally, adding further layers of differentiation within the Union.

⁹ [Joint Statement of the Foreign Ministries on the Launch of the Group of Friends on Qualified Majority Voting in EU Common Foreign and Security Policy, 04.05.2023.](#)

On the other hand, enhanced cooperation within the EU framework can offer significant advantages where joint action would benefit from EU budget guarantees or borrowing at Union level. It may also provide a stronger basis for sustained security engagement of a non-military nature involving almost all Member States, benefiting from the greater legitimacy associated with EU action and a stable operational framework more resilient to changes in national government policies. These advantages are particularly relevant where the participation of non-EU countries on an equal footing is not a primary consideration.¹⁰

The €90 billion support loan to Ukraine, whose legal framework was finalised by the Council of the European Union on 23 April 2026, provides a compelling example of such an arrangement. Financed through EU borrowing on the capital markets and backed by the EU budget headroom, the loan was established by a regulation adopted under the enhanced cooperation procedure with the participation of 24 Member States.¹¹

Even though, despite its foreign and security policy implications, this enhanced cooperation was not established on a CFSP legal basis¹², similar arrangements on a CFSP footing may be needed in the future to provide further strategic financial assistance to Ukraine, establish an EU framework for supporting its reconstruction following a ceasefire, or respond to emerging crises or political openings with geopolitical implications in the EU's neighbourhood, from Belarus to the Mediterranean. In a worst-case scenario, addressing the consequences of a limited military confrontation between Russia and EU Member States, such as the Baltic states or Poland, could also benefit from a comparable framework for post-conflict reconstruction.

Enhanced cooperation within the EU framework may therefore be preferable to intergovernmental cooperation where the Union's fiscal and borrowing capacity plays a central role, or where joint action would derive strategic benefits from the legitimacy and resilience of an arrangement anchored in EU law. Where joint action has a pronounced military or defence dimension, intergovernmental cooperation offers a clear advantage in terms of flexibility.

A further consideration is that the emergence of illiberal governments intent on challenging the EU's strategic agenda in key Member States, such as France, Italy or Poland, would affect both decision-making at Union level and those countries' willingness to engage constructively in intergovernmental formats. Such developments could deal a particularly severe blow to cooperation through the E3 and E5, while also raising questions about the legitimacy of new intergovernmental

¹⁰ Marise Cremona, "Enhanced Cooperation and the Common Foreign and Security and Defence Policies of the EU", EUI Law Working Papers 2009/21.

¹¹ [Regulation \(EU\) 2026/467 of the European Parliament and of the Council of 24 February 2026 implementing enhanced cooperation on the establishment of the Ukraine Support Loan for 2026 and 2027.](#)

¹² The legal base of the Council Decision (EU) 2026/258 of 29 January 2026 authorising enhanced cooperation on the establishment of a Loan for Ukraine has been [Article 329\(1\) TFEU](#) (enhanced cooperation outside of the scope of CFSP), while [Art 212 TFEU](#) (Economic, Financial, and Technical Cooperation with Third Countries) [has been serving as the legal base for the loan.](#)

arrangements seeking to address European foreign and security policy challenges without the participation of the largest EU Member States. Faced with this dual challenge, EU arrangements based on enhanced cooperation may become more attractive from 2027 onwards than they are today.

Despite these advantages, enhanced cooperation in CFSP faces a central procedural obstacle. Under [Article 329\(1\) TFEU](#), enhanced cooperation outside CFSP is authorised by the Council under its default rule of qualified majority voting and requires the consent of the European Parliament. Authorisation of enhanced cooperation in CFSP, however, remains subject to unanimity in the Council under [Article 329\(2\) TFEU](#).

This arrangement leaves the establishment of enhanced cooperation in CFSP just as vulnerable to political blackmail and vetoes based on issue linkage by illiberal Member States as ordinary CFSP decision-making under unanimity. It thereby substantially diminishes the flexibility and added value of enhanced cooperation as a means of preserving a measure of the Union's capacity to act.

3. The Proposal – Authorising Enhanced Cooperation in CFSP by Qualified Majority



Introducing QMV as the default rule for authorising enhanced cooperation in CFSP appears to offer a distinct and hitherto underexplored avenue for safeguarding the EU's capacity to act.

It could provide a safety belt against adversarial behaviour by illiberal governments willing to obstruct EU decision-making on matters of strategic foreign policy importance.

This avenue appears particularly promising because its scope is sufficiently limited and clearly distinguishable from a general introduction of QMV in CFSP through the passerelle clause under Article 31(3) TEU. It could therefore command substantially broader political support among Member States.

In consenting to such a reform, Member States could be reassured that they would retain the freedom to remain outside any future enhanced cooperation arrangement they do not wholeheartedly and actively support. At the same time, the Union would preserve its capacity to act even in the face of adversarial or disruptive behaviour by individual Member States. The reform would thus establish a fallback mechanism without encroaching on national sovereignty in the manner associated with a general introduction of QMV in CFSP.



From the perspective of Member States, it would offer the prospect of a mutually beneficial arrangement that combines freedom over participation with safeguards for the Union's collective capacity to act.

The proposed safeguard could also influence the conditions under which agreement on foreign policy files is negotiated, extending its strategic value beyond cases in which enhanced cooperation is ultimately authorised. The credible prospect that willing Member States could obtain authorisation to proceed within the Union's institutional framework would reduce the leverage associated with threatening to block collective action, particularly where vetoes serve to extract concessions on unrelated policy files. Governments contemplating such obstruction would have to weigh the possibility that continued opposition could diminish their influence over the resulting cooperation and its substantive direction. By altering these incentives, the availability of QMV-based authorisation could encourage compromise and facilitate agreement among all Member States. The mechanism could therefore contribute to the cohesion and effectiveness of CFSP through its influence on negotiations, even where its formal activation proves unnecessary.¹³

Against this background, the central question is whether the existing Treaty framework contains passerelle clauses that could permit the introduction of QMV specifically for decisions authorising enhanced cooperation in CFSP, without extending it to CFSP decision-making as a whole.

Three passerelle clauses warrant examination as potential legal avenues for achieving this objective: the enhanced cooperation passerelle clause under [Article 333 TFEU](#), the CFSP passerelle clause under [Article 31\(3\) TEU](#), and the general passerelle clause under [Article 48\(7\) TEU](#). The following analysis assesses their legal applicability and respective advantages and limitations, with particular attention to the robustness of the legal basis, the speed of the decision-making process, and the extent to which each avenue limits the involvement of additional veto players beyond the requirement of unanimity among Member States.

¹³ Wolfgang Wessels and Carsten Gerards, The Implementation of Enhanced Cooperation in the EU, European Parliament, PE 604.987, 2018.

a) The Enhanced Cooperation Passerelle Clause (Art. 333 TFEU)

The current Treaty framework contains a dedicated passerelle clause for enhanced cooperation under Article 333 TFEU.¹⁴ The scope of this provision, however, is limited. It allows QMV to replace unanimity in decision-making within a specific enhanced cooperation arrangement, including one established in the field of CFSP. It does not extend to the authorisation decision through which such an arrangement is established and therefore cannot serve as the basis for introducing QMV as a general rule for authorising particular categories of enhanced cooperation.¹⁵

The distinction between authorising enhanced cooperation and determining the voting rules governing its subsequent operation is decisive here. Article 333 TFEU permits QMV to be introduced as a decision-making modality within an enhanced cooperation arrangement once it has been established, including in CFSP. The decision authorising that arrangement nevertheless remains subject to unanimity. Nor does Article 333 TFEU provide a basis for changing the authorisation procedure across all future enhanced cooperation arrangements in the field of CFSP.

Article 333 TFEU therefore offers no viable legal avenue for achieving the specific objective pursued in this paper: authorising enhanced cooperation in CFSP by qualified majority. It nevertheless deserves consideration as a legal instrument that could support the gradual extension of QMV to CFSP decision-making, albeit within the confines of enhanced cooperation arrangements that have already been established.

b) The CFSP Passerelle Clause (Art. 31(3) TEU)

Article 31(3) TEU, governing decision-making in CFSP, provides that the European Council may unanimously adopt a decision enabling the Council to act by qualified majority, subject to the exclusion of decisions having military or defence implications under Article 31(4) TEU. It thus provides a passerelle mechanism for extending QMV to CFSP decision-making without amending the Treaties.

The central question is whether Article 31(3) TEU can be applied in conjunction with Article 329(2) TFEU, which governs the authorisation of enhanced cooperation in CFSP. More specifically, can the CFSP passerelle clause be used to introduce QMV for decisions authorising such cooperation?

¹⁴ Article 333 TFEU: “1. Where a provision of the Treaties which may be applied in the context of enhanced cooperation stipulates that the Council shall act unanimously, the Council, acting unanimously in accordance with the arrangements laid down in Article 330, may adopt a decision stipulating that it will act by a qualified majority.

2. Where a provision of the Treaties which may be applied in the context of enhanced cooperation stipulates that the Council shall adopt acts under a special legislative procedure, the Council, acting unanimously in accordance with the arrangements laid down in Article 330, may adopt a decision stipulating that it will act under the ordinary legislative procedure. The Council shall act after consulting the European Parliament.”

¹⁵ Kotanidis, Passerelle clauses in the EU Treaties.

Answering this question requires an examination of the Treaty provisions through textual, functional-substantive, and teleological interpretation, distinguishing the arguments that support this application from those that cast doubt on its legal feasibility.

A textual interpretation must first establish whether there is a sufficiently clear connection between Article 31(3) TEU and Article 329(2) TFEU to permit the former to apply to decisions adopted under the latter. The starting point is the opening sentence of Article 31 TEU, which confines its provisions to “decisions under this Chapter”.

Strictly construed, Article 329 TFEU falls outside Chapter 2 of Title V TEU, which contains the specific provisions on the Common Foreign and Security Policy. Indeed, it belongs to a different Treaty altogether: the Treaty on the Functioning of the European Union. Article 329(2) TFEU nevertheless refers expressly to CFSP and thereby establishes a connection with the policy framework governed by Chapter 2 of Title V TEU. A textual reading therefore does not, in itself, provide an unequivocal answer concerning the relationship between the two provisions.

On a restrictive textual interpretation, the location of the rules governing the authorisation of enhanced cooperation outside Chapter 2 of Title V TEU could support the argument that such decisions do not form part of substantive CFSP decision-making. Article 329(2) TFEU would, on this reading, constitute a *lex specialis* governing a procedural decision. Its application would consequently fall outside the scope of the CFSP *passerelle* clause.

In contrast, a systematic reading of the Treaties reveals a stronger connection through [Article 20 TEU](#)¹⁶, which expressly links the exercise of Union competences through enhanced cooperation to the relevant Treaty provisions and the detailed arrangements laid down in Articles 326–334 TFEU.

Article 329(2) TFEU thus forms part of an integrated Treaty framework governing how CFSP competence may be exercised through enhanced cooperation, providing an argument against

¹⁶ Article 20 TEU: “1. Member States which wish to establish enhanced cooperation between themselves within the framework of the Union’s non-exclusive competences may make use of its institutions and exercise those competences by applying the relevant provisions of the Treaties, subject to the limits and in accordance with the detailed arrangements laid down in this Article and in Articles 326 to 334 of the Treaty on the Functioning of the European Union.

Enhanced cooperation shall aim to further the objectives of the Union, protect its interests and reinforce its integration process. Such cooperation shall be open at any time to all Member States, in accordance with Article 328 of the Treaty on the Functioning of the European Union.

2. The decision authorising enhanced cooperation shall be adopted by the Council as a last resort, when it has established that the objectives of such cooperation cannot be attained within a reasonable period by the Union as a whole, and provided that at least nine Member States participate in it. The Council shall act in accordance with the procedure laid down in Article 329 of the Treaty on the Functioning of the European Union.

3. All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote. The voting rules are set out in Article 330 of the Treaty on the Functioning of the European Union.

4. Acts adopted in the framework of enhanced cooperation shall bind only participating Member States. They shall not be regarded as part of the *acquis* which has to be accepted by candidate States for accession to the Union.”

treating its authorisation procedure as legally detached from the CFSP provisions of the TEU solely because of its location. This connection supports examining Article 31(3) TEU and Article 329(2) TFEU together.

The restrictive interpretation is further weakened, although not conclusively displaced, by the substantive connection to CFSP established within Article 329(2) itself.¹⁷ The provision requires the High Representative of the Union for Foreign Affairs and Security Policy to give an opinion on whether the proposed enhanced cooperation is consistent with the Union's common foreign and security policy.

This requirement invites a functional-substantive interpretation of the Treaties and brings the decisive issue into sharper focus: whether Article 329(2) TFEU governs gateway decisions that form an integral part of substantive CFSP decision-making, thereby permitting the application of the CFSP passerelle clause, or merely establishes a special procedural regime to which that clause cannot extend.

From a functional-substantive perspective, authorising enhanced cooperation constitutes a constitutive act rather than a merely procedural step. In CFSP, such an act carries significant substantive policy implications. The enhanced cooperation arrangement established to provide €90 billion in financial assistance to Ukraine offers an instructive illustration. Its policy purpose informed the entire decision-making and legislative process, with clear implications for European foreign and security policy. This was the case even though the Council Decision of 29 January 2026 authorising enhanced cooperation on the establishment of the loan relied on Article 329(1) TFEU and [Article 212 TFEU](#), concerning economic, financial and technical cooperation with third countries, and the arrangement was consequently established outside the CFSP framework.

The constitutive decision authorising enhanced cooperation in CFSP establishes a direct connection with substantive foreign and security policy outcomes. From a functional perspective, it is therefore difficult to explain why such a decision should be excluded from a shift to qualified majority voting under Article 31(3) TEU when that possibility is available for other forms of substantive CFSP decision-making.

A teleological interpretation offers a further argument in favour of this application. Through the system of passerelle clauses, Member States, as the “Masters of the Treaties”, may be understood to have sought to establish a comprehensive framework encompassing the principal dimensions of EU decision-making, including CFSP. Its purpose would be to permit a transition to qualified majority

¹⁷ Art. 329(2) TFEU: “2. The request of the Member States which wish to establish enhanced cooperation between themselves within the framework of the common foreign and security policy shall be addressed to the Council. It shall be forwarded to the High Representative of the Union for Foreign Affairs and Security Policy, who shall give an opinion on whether the enhanced cooperation proposed is consistent with the Union's common foreign and security policy, and to the Commission, which shall give its opinion in particular on whether the enhanced cooperation proposed is consistent with other Union policies. It shall also be forwarded to the European Parliament for information. Authorisation to proceed with enhanced cooperation shall be granted by a decision of the Council acting unanimously.”

voting across the most significant areas of decision-making without Treaty amendment, wherever the unanimous political will of Member States supports such a transition.

If Article 31(3) TEU cannot be applied to the authorisation of enhanced cooperation in CFSP, a significant gap remains between Article 333 TFEU—which permits QMV to be introduced within established CFSP enhanced cooperation arrangements through a passerelle clause—and the purportedly narrower scope of Article 31(3) TEU, leaving decisions authorising enhanced cooperation in the field of CFSP without any applicable specific passerelle clause and subject only to the general passerelle clause under Article 48(7) TEU.

In contrast, if special passerelle clauses permit QMV to be introduced both in CFSP decision-making in general and within established CFSP enhanced cooperation arrangements in particular, there appears to be no compelling reason to exclude decisions authorising such enhanced cooperation, particularly given their substantive policy implications, from the scope of Article 31(3) TEU.

On this reasoning of teleological interpretation, Article 31(3) TEU can be understood to encompass decisions authorising enhanced cooperation in CFSP and to operate in conjunction with Article 329(2) TFEU, enabling such arrangements to be authorised by qualified majority. This interpretation also gives effect to a teleological understanding of the Treaties as a coherent and complete framework by closing the gap that would otherwise arise from an exclusively restrictive textual reading of the passerelle provisions.

Against this background, the CFSP passerelle clause can be considered a legally and politically viable avenue for safeguarding the Union’s capacity to act through the introduction of QMV as the default rule for authorising enhanced cooperation in CFSP. This reform could be enacted through a unanimous European Council decision and would limit the involvement of additional veto players, particularly national parliaments, to cases where the national legal provisions of individual Member States require it. Provided that Member States can reach political agreement and embrace this legal interpretation, or that an opinion of the Council Legal Service supports it, a European Council meeting before April 2027 could therefore take the necessary reform decision and establish a strategic safeguard for the Union’s capacity to act in CFSP.

c) General Passerelle Clause ([Art. 48\(7\) TEU](#))

While the CFSP passerelle clause offers a potentially swift, albeit legally uncharted, avenue for introducing QMV for decisions authorising enhanced cooperation in CFSP, the general passerelle clause under Article 48(7) TEU provides an unambiguous legal route, if applied in conjunction with Article 329(2) TFEU.¹⁸ Its application, however, entails a considerably longer decision-making process

¹⁸ [Article 353 TFEU](#) specifies which Treaty provisions are excluded from the scope of Article 48(7) TEU. Article 329(2) TFEU is not among them.

and greater exposure to potential obstruction by national veto players, particularly in the political circumstances that may emerge from national elections across the EU in 2027.¹⁹

Article 48(7) TEU provides that, where the TFEU or Title V TEU requires the Council to act unanimously in a given area or case, the European Council may adopt a decision authorising it to act by qualified majority in that area or case. Decisions with military implications or in the area of defence are excluded from this provision.

Before the European Council can adopt such a decision, national parliaments must be notified of the initiative. This notification opens a six-month period during which any national parliament may express its opposition. An objection from even a single national parliament prevents the European Council from adopting the decision. Adoption also requires unanimity in the European Council and the consent of the European Parliament, given by a majority of its component members.

These procedural safeguards make the general passerelle clause under Article 48(7) TEU appear politically less feasible than the CFSP passerelle clause, given the limited time window preceding the French presidential elections and the potential opposition of national parliaments.

This comparison brings the trade-off between legal certainty and political feasibility into sharper focus. In view of the time constraints and the uncertainty surrounding possible parliamentary objections under Article 48(7) TEU, clarifying the legal applicability of the CFSP passerelle clause as swiftly as possible appears to offer Member States the most promising political avenue. It could enable them to establish a fallback mechanism capable of safeguarding the Union's capacity to act under the political conditions foreseeable in the coming years.

4. Conclusion - A Safety Belt for the Union's Capacity to Act

The introduction of QMV for decisions authorising enhanced cooperation in CFSP could provide a politically limited yet strategically significant safeguard for the EU's capacity to act. Under the current Treaty framework, a Member State can obstruct both ordinary CFSP decision-making and the authorisation of enhanced cooperation through which willing Member States could pursue joint action. Applying the CFSP passerelle clause to the latter category of decisions would address this dual vulnerability and preserve a meaningful degree of the Union's capacity to act, even in circumstances where illiberal governments seek to exploit unanimity for political leverage.

The legal venue appears particularly promising because its scope is sufficiently limited to accommodate concerns that have so far prevented a broader introduction of QMV in CFSP. Member States would retain the freedom to remain outside enhanced cooperation arrangements they do not support, while accepting that their non-participation should not prevent others from proceeding.

¹⁹ Robert Böttner, "The Treaty Amendment Procedures and the Relationship between Article 31(3) TEU and the General Bridging Clause of Article 48(7) TEU", *European Constitutional Law Review* 12(3) (2016), 499-519.

This combination of national discretion and collective capacity to act could provide a basis for agreement extending beyond the current membership of the Group of Friends on Qualified Majority Voting. It would allow governments to strengthen the resilience of EU decision-making without accepting a general obligation to implement foreign policy decisions adopted against their position.

The concerns associated with further differentiation within the Union nevertheless require consideration. All forms of flexible cooperation entail a trade-off between the capacity to act and the homogeneity of European integration. Enhanced cooperation, however, keeps such differentiation within the Union's institutional and legal framework, where the integrity of Union policies and the competences, rights and obligations of non-participating Member States remain protected by the Treaties. These requirements would continue to apply to authorisation decisions adopted by qualified majority. Moreover, enhanced cooperation remains open to the subsequent participation of additional Member States, subject to the applicable conditions, thereby providing an inclusive framework through which cooperation among an initially limited group can acquire broader European participation.

The exclusion of decisions having military or defence implications under Article 31(4) TEU further defines the scope of the proposed reform. Within these limits, QMV-based authorisation could facilitate sustained foreign and security policy engagement where the legitimacy, institutional continuity and stability of an EU arrangement offer significant advantages over intergovernmental cooperation. Where such engagement also requires EU financial instruments, budget guarantees or joint borrowing, the relevant legal and budgetary requirements would need to be addressed separately. The reform would nevertheless remove a central procedural obstacle to establishing cooperation within the Union and strengthen the range of options available when agreement among all Member States cannot be reached.

Against this background, the potential application of Article 31(3) TEU in conjunction with Article 329(2) TFEU deserves serious legal and political consideration. The integrated Treaty framework established by Article 20 TEU, the express connection between Article 329(2) and CFSP, and the constitutive character and substantive policy implications of authorisation decisions provide mutually reinforcing arguments in support of this interpretation. Considered together with the purpose of the passerelle clauses, they offer a credible basis for extending QMV to the authorisation of enhanced cooperation in CFSP.

The immediate policy priority should therefore be to clarify the legal feasibility of this application while assessing the political support it could command among Member States. An assessment by the Council Legal Service, accompanied by consultations initiated by interested governments, could establish whether Article 31(3) TEU provides a sufficiently robust basis for the proposed reform. The general passerelle clause under Article 48(7) TEU remains an alternative, although its six-month parliamentary objection period and the requirement of consent by the European Parliament make it politically more demanding within the available timeframe.

Pursuing clarification of the CFSP passerelle route, including the relevant domestic parliamentary requirements, would allow Member States to consider a concrete initiative before the political conditions for unanimous agreement potentially deteriorate.

Compared with the available alternatives, authorising enhanced cooperation in CFSP by qualified majority could offer a particularly balanced response to the tension between national foreign policy autonomy, the coherence of European integration and the Union's capacity to act. Its adoption would establish a fallback mechanism against disruptive veto behaviour while preserving the possibility of broader CFSP reform as a medium- to long-term objective. It could also initiate a gradual reform process addressing further bottlenecks in EU decision-making.



The political window identified in this paper should therefore be used to examine and advance this proposal, with a view to providing the Union with a strategic safety belt before renewed obstruction makes such a safeguard both more necessary and more difficult to establish.

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Daniel Hegedüs is the Deputy Director of Institut für Europäische Politik. His research focuses on the decline of democracy and the rule of law in the European Union, the intersection between autocratisation and foreign policy, and the European and foreign policies of the Visegrad states. Daniel is the author of more than 80 academic and political articles and writes regularly for international media.

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