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BREAKING THE UNANIMITY RULE IN EU COMMON FOREIGN AND SECURITY POLICY: THE COMMISSION'S NEW APPROACH, THE LOGIC OF LEGAL BASIS SELECTION, AND LEGAL CONSTRAINTS

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SUMMARY

- In the EU's Common Foreign and Security Policy (CFSP), the traditional requirement of unanimity increasingly results in decision-making deadlock, particularly in crisis management and sanctions-related matters; a current example is the debate on using frozen Russian state/central bank assets to support Ukraine.
- In December 2025, the Commission proposed an approach that does not rewrite the treaty-based CFSP rules, but instead creates the possibility of qualified majority decision-making through an act grounded in the TFEU.
- "Breaking unanimity" manifests in practice as a legal-basis selection strategy: measures linked to foreign-policy conflict are reframed as pursuing "economic stability" objectives and are thereby brought under the TFEU framework.
- The institutional specificities of the CFSP (special procedures, the exclusion of legislative acts, the limited role of the Commission and the European Parliament, and narrower judicial review) heighten the constitutional stakes of such procedural innovation.
- The Treaties provide only limited flexibility (constructive abstention; the Article 31(2) TEU qualified-majority exception with an emergency brake; the Article 31(3) TEU passerelle), yet these instruments are politically difficult to mobilise and often redirect the matter back to unanimity.
- The Commission's key legal basis is Article 122 TFEU (in particular Article 122(1)), which—under a crisis and solidarity logic—enables rapid Council action by qualified majority.
- The constraints on legal-basis switching are defined by four main factors: the CFSP–TFEU delimitation under Article 40 TEU; judicial control of the legal basis through the "centre-of-gravity" test; the exceptional/temporary nature and proportionality requirements inherent in Article 122 TFEU; and the dual structure of the EU sanctions regime (Article 29 TEU coupled with Article 215 TFEU).
- The solution operates within a narrowly circumscribed legal margin and is best understood as a temporary crisis instrument. Its sustained and expansive use however, could amount to a de facto treaty change without ratification, to the detriment of Member State sovereignty.

In the European Union's Common Foreign and Security Policy (CFSP), the traditionally prevailing principle of unanimity in decision-making has increasingly proven to be an impediment. One example is the issue of using frozen Russian state assets to assist Ukraine. The majority of Member States support the idea, but during the debates several have indicated opposing positions. In December 2025, the European Commission put forward a novel proposal under which Member States could decide on the matter by

qualified majority rather than unanimity. The purpose of this analysis is to interpret the legal background and consequences of the new mechanism.

Historically, the European Union's Common Foreign and Security Policy has been the strongest "bastion" of Member State sovereignty: as a rule, decision-making requires unanimity, and the roles of EU institutions are deliberately limited (European Union, 2016). In this field, European integration has historically proceeded cautiously, step by step, along "special" procedures different from ordinary legislation (Koutrakos, 2017). At the same time, the price of unanimity in the CFSP—especially in crisis situations—is the risk of paralysis in decision-making. Unanimity creates the possibility of a veto: even a single Member State is able to slow down, dilute, or prevent joint action. Alongside the proliferation of crisis and conflict management, sanctions policy, hybrid threats, and "geopolitical" imperatives, this risk has attracted growing political and institutional attention. The question is not merely a debate about efficiency: it is a constitutional and legal-basis dilemma—how to increase the capacity to act without infringing the Union's legal order (in particular, the conferral of competences and institutional balance) (De Baere and Van den Sanden, 2016).

The Commission—because of its own understanding of its role and the institutional practice that has developed during crisis management—has increasingly been seeking legal paths that do not resolve the unanimity requirement within the CFSP through treaty amendment, but rather create faster measures, acceptable under qualified majority voting, through other legal bases of the existing Treaties and through other policy areas. In recent years, the key term for this has been "EU emergency law" (emergency law), as well as creative but legally contested uses of legal bases (Cinnirella, 2025; Mańko, 2025).

Unanimity and "treaty-based" flexibility in the CFSP

One distinctive feature of the CFSP is that it does not operate according to the classic "Community method". The Treaty ties the CFSP to special procedures: the European Council and the Council are the main actors, legislative acts are expressly excluded, and decision-making is by default unanimous (European Union, 2016: TEU Article 24(1), Article 31(1)). One consequence of this is that the Commission's right of initiative and the European Parliament's substantive influence are more limited than in policies based on the Treaty on the Functioning of the European Union (TFEU; Hungarian: *EUMSZ*).

Article 31(1) TEU itself also confirms that Council decisions falling under the CFSP chapter must be adopted unanimously, unless the chapter provides otherwise. This requirement in practice grants a veto right to every Member State: any country can prevent a common foreign policy step if it is unacceptable to it. It is important to note, however, that in EU practice there is a difference between the concepts of unanimity and consensus. Unanimous decision-making formally allows abstention (i.e., it is not necessary for every Member State to cast a "yes" vote; it is sufficient that no member votes "no"), whereas in practice consensus presupposes full agreement by all participants. The European Council typically strives for consensus even where, in principle, there would be a possibility of voting; in the CFSP, however, unanimous decision-making is the general rule, from which only few exceptions exist.

Another element of this special character is the jurisdictional model. The CFSP is simultaneously intergovernmental in nature and embedded in an EU legal framework. In CFSP cases, the Court (CJEU) may act only in a narrow range, for example in certain sanctions cases or in disputes concerning competence/procedure.

Unanimity, however, is not absolute even in the CFSP. Article 31 TEU contains several instruments intended to make decision-making more flexible.

Constructive abstention. Constructive abstention makes it possible for a Member State to declare formally that it is not obliged to apply the decision, but it does not prevent the decision from being adopted (European Union, 2016: TEU Article 31(1)). This method appears in the literature as the "second-best" solution, because it simultaneously allows a Member State to pursue a separate course while enabling joint action to be realised (Wessel and Szép, 2022). Due to its dual constraints, however, Member States use it relatively rarely. First, a decision adopted in this way entails reputational and solidarity costs because of the "we do

not undertake it, but we allow it" principle; second, in sanctions matters it is particularly questionable how abstention should be interpreted with respect to TFEU implementing regulations linked to a CFSP decision (TFEU Article 215) (Bartoloni, 2022).

Qualified majority in the CFSP – exceptions and the "passerelle". Article 31(2) TEU exhaustively lists certain cases in which the Council may depart from the unanimity requirement:

a) **Defining a Union action or position on the basis of a strategic decision adopted by the European Council:** If the European Council—which itself decides unanimously—defines the EU's strategic interests and objectives in a given matter pursuant to Article 22(1) TEU, then the Council may adopt the specific Union action developed on that basis by qualified majority. In other words, following the consensual guidance of Heads of State or Government, the implementing decision does not require unanimity again.
b) **Defining a Union action or position on a proposal from the High Representative following a request by the European Council:** If the European Council—on its own initiative or on the initiative of the High Representative of the Union for Foreign Affairs and Security Policy—asks the High Representative to draw up a proposal for a common position or action, the Council may adopt that proposal by qualified majority. This provision makes it possible for the Council to implement needs articulated at the highest political level more flexibly.
c) **Decisions implementing a Union action already adopted:** If the Council has previously, by unanimity, adopted a decision on a Union action or position (e.g., adopted a common strategy or decision), then the related implementing measures—thus, elaborating the details, updating the sanctions list, etc.—may be voted by qualified majority. The aim of this exception is to avoid having to secure full agreement again for every technical modification (since the fundamental political decision has already been taken unanimously). In practice, Member States have also used this possibility: it has occurred that the Council expanded the personal scope of a sanctions list by qualified majority after the original sanctions framework had been adopted by consensus. However, if an implementing issue later becomes politically sensitive, Member States tend to insist on unanimity—an example is that, when the human rights sanctions regime (the so-called "European Magnitsky regime") was brought into force, qualified majority was ultimately not applied, even though it had been proposed (European Commission 2018; Pomorska and Wessel, 2021).
d) **Appointment of a special EU representative:** Under Article 33 TEU, the EU may appoint special representatives to certain crisis regions or thematic issues. The Council may also decide on the appointment of such a special representative by qualified majority; unanimity is not required. The practical rationale for this exception is that it would be more difficult to secure full agreement of every Member State for personnel appointments, while qualified majority ensures that the candidate is supported by the overwhelming majority of Member States.

In the above cases, therefore, the Treaty itself permits departure from unanimity. Nevertheless, even these limited possibilities for qualified majority are surrounded by an important safeguard. Article 31(2) TEU contains a so-called emergency brake clause: if, in cases that can be decided by qualified majority under Article 31(2), a Member State opposes adoption of the decision by qualified majority on compelling and explicit grounds of national policy, no vote shall take place. Instead, the High Representative must consult the opposing Member State with a view to finding a solution, and if this does not lead to a result, the Council may, by qualified majority, request that the matter be referred to the European Council, where unanimity applies. That is, if a country invokes a vital interest forming the basis of its veto right, the application of qualified majority is ultimately channelled back to the unanimity requirement at the level of Heads of State or Government. This emergency brake ensures that, in the case of a cardinal national interest, a Member State cannot simply be outvoted in foreign policy matters. At the same time, it must be recognised that invoking this clause is a politically significant step—it occurs rarely, since even merely signalling its possible use encourages negotiation and compromise.

Article 31(3) TEU contains a general authorisation (a bridging clause, in French *passerelle*) for cases in which Member States are prepared to depart more broadly from the principle of unanimity. The constitutional operation and limits of passerelle clauses are analysed in detail in the literature (Böttner, 2016; Kotanidis, 2020). It must be emphasised that, in the CFSP, the path to qualified majority itself requires unanimity (activation of the passerelle). Accordingly, the European Council may, by a unanimous decision, authorise the Council to act by qualified majority in certain CFSP matters, with the exception of decisions having military or defence implications (European Union, 2016: TEU Article 31(3)–(4)).

The use of the passerelle can essentially be understood as an internal reform mechanism that does not require treaty amendment: if all Member States show political will, it is possible, at the highest level, to allow a shift to majority decision-making in certain areas. Article 31(3) TEU is a "lex specialis passerelle" in the CFSP (as opposed to the general passerelle under Article 48(7) TEU). This possibility has never been applied so far: as the literature points out, it requires the unanimous consent of all Member States, so it is sufficient if even just one country opposes it, and the bridging clause cannot be brought into force (Wessel and Szép, 2022).

In practice, several Member States have so far been decidedly reluctant to extend qualified majority voting in foreign policy—especially those that fear their national interests may be harmed. For example, in 2018 the Juncker Commission proposed that, through the use of the passerelle, qualified majority be gradually introduced in three areas: statements related to human rights, the EU's general sanctions policy, and the launching of civilian crisis-management missions (Blockmans, 2013). The reception among Member States was lukewarm: only 7 Western European countries openly supported it, while ten were sceptical and ten explicitly opposed the proposal. The case shows how politically sensitive the use of the passerelle clause is. At the same time, several Member States indicated cautious openness to qualified majority voting in certain areas, especially in sanctions and human-rights statements (Wessel, 2020). Despite these developments, we remain far from unanimous agreement to activate the passerelle; thus this route remains primarily a theoretical possibility as long as at least one Member State insists on its veto right.

Enhanced cooperation. The general flexibility mechanism of the EU Treaties, enhanced cooperation, can also be applied in foreign policy, albeit with specific constraints. The essence of enhanced cooperation (TEU Article 20, and TFEU Articles 326–334) is that, if a group of Member States wishes to move forward in an EU policy area where full agreement is lacking, they can—on the initiative of at least 9 Member States—establish closer cooperation, which is not binding on the others. In the CFSP, however, the rule on enhanced cooperation is stricter: under Article 329(2) TFEU, the Council must authorise the launch of such cooperation unanimously. That is, the Member State that would remain outside it may also veto it. This requirement severely restricts the instrument in practice; to date, enhanced cooperation has not been used even once in the CFSP. In theory, if such cooperation were established (e.g., a coalition of certain countries forming a common diplomatic or sanctions front), the participating Member States could decide among themselves—under Article 333 TFEU—to switch to qualified majority voting within the framework of the cooperation (European Union, 2016: TFEU Article 333). Decisions adopted in this way would bind only those participating in the cooperation. Furthermore, such cooperation may not extend to the military or defence field (TEU Article 20(2)). All this means that enhanced cooperation is, in principle, a possible solution for a "breakthrough"—especially if, in the area concerned, the non-participating Member States are willing to allow the others to move forward in exchange for opting out. In reality, however, this method is hardly applicable in the most contested foreign policy issues, since its use arises precisely where one or two Member States rigidly oppose joint action. Those Member States are unlikely to give unanimous authorisation for the others to proceed with cooperation. Moreover, enhanced cooperation would also work only in relatively consensual matters (Blockmans, 2013).

The Commission's "new method": choosing a different legal basis for decision-making

For these reasons, the attention of the Commission and of Member States seeking to reform the system has increasingly shifted towards legal bases codified in the Treaty on the Functioning of the European Union, outside the CFSP / Treaty on European Union. In the TFEU, decision-making operates by qualified majority as a rule; the veto of one or even several Member States does not block decision-making.

In practice, the Commission proposal presented in December 2025 applies a procedural workaround regarding the sources of law to circumvent the veto right existing in the CFSP. Instead of trying to have the decision in question (the use of Russian state assets to support Ukraine) adopted as a traditional CFSP decision (which would require unanimity under Article 31(1) TEU), the Commission places the draft on a legal basis derived from another chapter of the EU Treaties that is not part of foreign policy. In other words, the new method proposed by the Commission does not break unanimity within the CFSP, but chooses a different legal basis for adopting the decision.

In EU law, the legal basis of an act is not a technical formality, but a matter of constitutional significance: it determines the procedure (qualified majority or unanimity), institutional participation (the role of the European Parliament), and respect for institutional competences (Eckes, 2016). According to the Court's classic doctrine, the legal basis must be selected on the basis of the act's aim and content ("centre-of-gravity test"), and a more favourable legal basis cannot be sought merely for procedural advantages (De Baere and Van den Sanden, 2016).

One route for choosing a legal basis is Article 122 TFEU:

- **Article 122(1):** the Council—on a proposal from the Commission—may, in a spirit of solidarity between Member States, decide upon measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy;
- **Article 122(2):** where a Member State is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control, financial assistance may be granted to that Member State.

At this point, the "foreign policy" and "economic" logics intersect: if the Commission is able to justify a measure with an economic-stability objective (for example, the stability of financial markets, mitigation of budgetary risks), then the Council can decide quickly by qualified majority under the general rule, bypassing the bottleneck created by the CFSP unanimity requirement.

It must in any case be mentioned that, when the Council adopts measures under Article 122 through an accelerated procedure, it does so without involving the European Parliament in decision-making (although the Treaty prescribes that the European Parliament must be informed), and this also raises concerns of democratic legitimacy (Mańko, 2025).

Russian assets / central bank instruments and "economic stability"

On 3 December 2025, the Commission submitted a proposal for a Council regulation that is explicitly based on Article 122(1) TFEU and refers to addressing "serious economic difficulties caused by Russia's actions". According to its own reasoning, the proposal does not replace CFSP sanctions, but alongside them—within a different objective framework (EU economic stability)—seeks to introduce temporary emergency measures, while affecting Russian central bank assets and the management of related financial flows (European Commission, 2025).

This is the type of situation in which "breaking CFSP unanimity" appears in practice not as the Commission rewriting Article 31 TEU, but as placing a crisis measure on a TFEU legal basis that is linked to a foreign policy conflict yet legitimises the qualified majority procedure with economic-stability arguments.

The most innovative element of the proposal is therefore the procedure: the Council would adopt the decision by qualified majority, not by unanimity. According to the Commission, under the relevant EU law

(Article 122 TFEU) the programme can be launched if, under the EU's general qualified majority rule (the so-called double majority), 55% of the Member States (currently 15 Member States), representing at least 65% of the EU population, approve it. Formally, therefore, it would not be a foreign affairs Council decision under Article 31 TEU, but rather a Council regulation or decision adopted on the basis of the relevant TFEU provision—and thus qualified majority would apply to it by default.

The limits of the "legal trick" of changing the legal basis

Changing the legal basis is problematic from several perspectives.

1. **The delimitation (non-affectation) clause laid down in Article 40 TEU.** Article 40 TEU provides that the implementation of the CFSP shall not affect the application of the procedures and the extent of the powers of the institutions laid down by the Treaties for the exercise of the Union competences referred to in the TFEU, and conversely, that the exercise of those competences shall not affect the implementation of the CFSP (European Union, 2016: TEU Article 40). The practical meaning of this is that Article 122 TFEU cannot be used to adopt genuinely CFSP-purpose measures (for example, foreign-policy sanctions decisions) "in the guise of economic measures". Article 40 TEU is a constitutional "collision point": it allows parallel use of instruments, but prohibits circumventing the treaty decision-making logic.
2. **Judicial control of legal-basis determination and the role of the Court of Justice of the European Union.** One arena for inter-institutional disputes is the question of determining the legal basis. In several cases, the Court has emphasised that the delimitation between a CFSP legal basis and a TFEU legal basis is not merely a formal matter: what is at stake is institutional participation (for example, informing the European Parliament) and respect for competences. In the European Parliament v Council case (C-658/11), for example, in connection with a CFSP-related international agreement, the Court recorded the significance of procedural guarantees and the special features of the CFSP (Court of Justice of the European Union, 2014). The literature describes this as a "post-Lisbon" constitutional space in which legal-basis selection also determines institutional power relations and democratic control (De Baere and Van den Sanden, 2016).
3. **The limits of applying Article 122: exceptional character, temporariness, proportionality.** Article 122 is treated by both law and practice as exceptional emergency law. Its application presupposes the existence of special circumstances, and a recurring criticism is that the exclusion of the European Parliament may create a legitimacy deficit. Article 122 therefore cannot serve as a general authorisation for "everything that is geopolitically urgent", but only for measures tied to an exceptional situation that are appropriate and necessary, and that can also be assessed against standards of gradualism and compliance with fundamental rights. The Court is also restrictive regarding crisis legal bases, including in relation to the interpretation of Article 122(2): in the Pringle case, for example, this legal basis was not suitable for establishing a permanent stability mechanism; the exception could not become permanent (Court of Justice of the European Union, 2012; Borger, 2013).
4. **Sanctions – due to the "integrated regime" character of CFSP–TFEU, complete circumvention is not possible:** The legal technique of the classic EU sanctions regime is itself "dual": the political decision is based on the CFSP / Article 29 TEU, while implementation often relies on Article 215 TFEU. This integrated regime simultaneously enables rapid, directly applicable economic measures, but it preserves the unanimity logic of the CFSP political decision (Bartoloni, 2022). The Court also treats the legal control of sanctions in a differentiated manner; in the Rosneft case (C-72/15) it indicated that judicial review of CFSP sanctions constructions and the coherence of the EU legal order is not a political space that can be "freely shaped" (Court of Justice of the European Union, 2017).

Consequently, the Commission's "solution" based on Article 122 can at most implement related economic-stability measures by qualified majority, but it cannot fully replace the unanimity of CFSP political decisions on sanctions.

Democratic control and institutional balance: bypassing the European Parliament as a structural risk

One "price" of the Article 122 TFEU legal basis is that the European Parliament is formally excluded from decision-making. This is not merely political in character; it also induces a constitutional debate on the extent to which executive-type decision-making can be applied in crisis situations. Precisely in order to address this situation, supplementary, non-treaty-type guarantees have developed (e.g., budgetary oversight declarations, internal procedural rules of the European Parliament) that seek to strengthen Parliament's role at least ex post (European Parliament Research Service, 2025).

Conclusion

The essence of the new solution sought by the Commission is not a direct override of the CFSP's treaty logic (only treaty amendment or the passerelle policy of Article 31(3) TEU can do that), but the strategic use of legal-basis selection: placing measures linked to a foreign policy conflict, but presented as serving economic stability objectives, on a TFEU legal basis—typically relying on Article 122 TFEU. The Commission proposal of 3 December 2025 illustrates this logic well: it frames the proposal as an emergency measure pursuing "economic stability" in parallel with CFSP sanctions (European Commission, 2025).

However, the room for manoeuvre is legally narrow. The delimitation principle under Article 40 TEU, judicial control over legal-basis selection, the exceptional/temporary nature of Article 122 TFEU, and the legitimacy deficit arising from the exclusion of the European Parliament are all constraints due to which "breaking CFSP unanimity" is better understood as a temporary solution. It does not replace, but circumvents or complements the official CFSP decision-making channel, while at the same time opening new constitutional debates about EU crisis governance.

If an expansive interpretation of Article 122 TFEU becomes entrenched, it may result in a de facto treaty amendment, without ratification procedures, to the detriment of Member State sovereignty.

REFERENCES

- Bartoloni, M.E. (2022) 'Simple Abstention and Constructive Abstention in the Context of International Economic Sanctions: Two Too Similar Sides of the Same Coin?', European Papers – European Forum (Insight), 7(3), pp. 1121–1130. doi:10.15166/2499-8249/616. European Papers
- Blockmans, S. (2013) 'Differentiation in CFSP', Studia Diplomatica, 66(3), pp. 53–67. European Parliament
- Borger, V. (2013) 'The ESM and the European Court's Predicament in Pringle', German Law Journal, 14(1), pp. 113–140. doi:10.1017/S2071832200001735. Cambridge University Press & Assessment
- Böttner, R. (2016) '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), pp. 499–524. doi:10.1017/S1574019616000304.
- Cinnirella, C. (2025) '"Emergency Powers" of the European Union: An Inquiry on the Supranational Model', European Papers, 10(3), pp. 525–553. doi:10.15166/2499-8249/844. European Papers
- Court of Justice of the European Union (2012) Pringle v Government of Ireland, Case C-370/12, Judgment of 27 November 2012, EU:C:2012:756.
- Court of Justice of the European Union (2014) European Parliament v Council, Case C-658/11, Judgment of 24 June 2014, EU:C:2014:2025.
- Court of Justice of the European Union (2017) Rosneft, Case C-72/15, Judgment of 28 March 2017, EU:C:2017:236.

- De Baere, G. and Van den Sanden, T. (2016) 'Interinstitutional Gravity and Pirates of the Parliament on Stranger Tides: The Continued Constitutional Significance of the Choice of Legal Basis in Post-Lisbon External Action', European Constitutional Law Review, 12(1), pp. 85–113. doi:10.1017/S1574019616000055.
- Eckes, C. (2016) 'Common Foreign and Security Policy: The Consequences of the Court's Extended Jurisdiction', European Law Journal, 22(4), pp. 492–518. doi:10.1111/eulj.12183. Pure
- European Commission (2018) A stronger global actor: a more efficient decision-making for EU Common Foreign and Security Policy, COM(2018) 647 final, 12 September 2018.
- European Commission (2025) Proposal for a Council Regulation on emergency measures addressing the serious economic difficulties caused by Russia's actions in the context of the war in Ukraine, COM(2025) 3501 final, Brussels, 3 December 2025. https://commission.europa.eu/document/download/65ec50b2-81dc-4e00-9e6f-a5ba75123c00_en
- European Parliament (2022) The implementation of Article 31 TEU and the use of Qualified Majority Voting: Towards a more effective Common Foreign and Security Policy? Study, PE 739.139, 24 November 2022. (Authors: Wessel, R.A. and Szép, V.). European Parliament
- European Parliament Research Service (2020) Kotanidis, S. Passerelle clauses in the EU Treaties: Opportunities for more flexible supranational decision-making, Study, PE 659.420, December 2020. European Parliament
- European Parliament Research Service (2025) Mańko, R. Legal bases in Article 122 TFEU: Tackling emergencies through executive acts, Briefing, PE 769.579, April 2025. EUR-Lex
- European Union (2016) Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, Official Journal of the European Union, C 202, 7 June 2016.
- Koutrakos, P. (2017) The European Union's Common Foreign and Security Policy after the Treaty of Lisbon, SIEPS Report 2017:3. Stockholm: Swedish Institute for European Policy Studies.
- Pomorska, K. and Wessel, R.A. (2021) 'Editorial: Qualified Majority Voting in CFSP: A Solution to the Wrong Problem?', European Foreign Affairs Review, 26(3), pp. 351–358. doi:10.54648/EERR2021024. Wiley Online Library
- Wessel, R.A., Anttila, E., Obenheimer, J. and Ursu, A. (2020) 'The future of EU Foreign, Security and Defence Policy: Assessing legal options for improvement', European Law Journal, 26(5–6), pp. 371–390. doi:10.1111/eulj.12405. ramseswessel.eu