

Managing Crises, Sharing Power

The EU's Inter-Institutional
Cooperation in Action

Clingendael Report

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List of abbreviations

CAP	Common Agricultural Policy
CER Directive	Directive (EU) 2022/2557 on the resilience of critical entities
CERG	Critical Entities Resilience Group
CFSP	Common Foreign and Security Policy
CJEU	Court of Justice of the European Union
COREPER	Committee of the Permanent Representatives of the Governments of the Member States to the European Union
CRP	Crisis Response Platform
CRMA	Critical Raw Materials Act
CSDP	Common Security and Defence Policy
CSIRT Network	Computer Security Incident Response Team Network
DMO	Defence Materiel Organisation
EEAS	European External Action Service
ENISA	European Agency for Cybersecurity
EMSA	European Maritime Safety Agency
EP	European Parliament
ERCHT	EU Response to Hybrid Threats
EU	European Union
EUCO	European Council
EU-CyCLONe	European Cyber Crisis Liaison Organisation Network
EURI	European Union Recovery Instrument
ERCC	Emergency Response Coordination Centre
FIMI	Foreign Information Manipulation and Interference
FO (NCTV)	Front Office (National Coordinator for Counterterrorism and Security)
HFC	Hybrid Fusion Cell
HR/VP	High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the European Commission
HWPCI	Horizontal Working Party on Cyber Issues
IAO	Interdepartementaal Afstemmingsoverleg
ICCb	Interdepartementale Commissie Crisisbeheersing
IPCR	Integrated Political Crisis Response
JEF	Joint Expeditionary Force
IMERA	Internal Market Emergency and Resilience Act
INTCEN	European Union Intelligence and Situation Centre

JBZ/RBZ	Raad Justitie en Binnenlandse Zaken
MARCOM	Maritime Centre for the Security of Critical Undersea Infrastructure
NAC	North Atlantic Council
NATO	North Atlantic Treaty Organization
NCC	National Crisis Centre
NCSC	National Cyber Security Centre
NCTV	National Coordinator for Counterterrorism and Security
NGEU	Next Generation EU
NIS2	Network Information Security 2
OOPCH	Operational Options for Countering Hybrid Threats
PROCIV-CER	Civil Protection – Critical Entities Resilience
PSC	Political and Security Committee
QMV	Qualified Majority Voting
RBRK	Rijksbreed Responskader
RWG	Council Working Party (Raadswerkgroep)
SAFE	Security Action for Europe
SEAR	EU Solidarity and Emergency Aid Reserve
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
UCPM	Union Civil Protection Mechanism
UNCLOS	United Nations Convention on the Law of the Sea
UUVs	Uncrewed Underwater Vehicles

Executive summary

Last December, the EU decided to indefinitely freeze Russian assets. The Council of the European Union and the European Commission once again used emergency clause Article 122 of the Treaty on the Functioning of the European Union (TFEU). This article allows the Council to decide on emergency measures based on a qualified majority rather than unanimity. It thereby offers a way to circumvent vetoes and to enforce decisions quickly. This speed is also possible because the use of this clause excludes the European Parliament (EP) from decision-making. Emergency clauses – of which the EU Treaties include several – offer a solution to the frequently heard criticism that the EU is unable to act quickly on difficult issues because of lengthy negotiations between the EU institutions and 27 Member States, and because certain decisions require unanimous support among the latter. Their use has indeed facilitated breakthroughs during several recent crises that the EU faced, from the COVID-19 pandemic to the full-scale Russian invasion of Ukraine. At the same time, frequent use disrupts the Union's institutional balance, not least because the EP is sidelined as co-legislator.

Emergency clauses in the EU Treaties are only one element of the EU's crisis toolkit. Secondary law also contains numerous instruments that can be used in times of crisis, for example to counter foreign interference or to protect critical infrastructure and the internal market. This toolkit has, moreover, been significantly expanded in recent years. This expansion is largely due to the hybrid nature of crises, which are also increasingly being deliberately caused by hostile powers. This means that the EU is becoming active in politically sensitive areas that were previously mainly issues of national sovereignty – for example security and defence. Although this increases the EU's geopolitical clout, this so-called mission creep also causes tension and noise between intergovernmental and supranational governance levels and actors.

The management of these so-called crisis instruments depends principally on policy area and scope, and subsequently on the division of competences in the EU. Yet, the speed with which recent crises have followed one another, as well as their predominantly hybrid and intentional nature, have put pressure on this division of competences, resulting in shifting institutional dynamics. As the EU's executive and regulatory body with ample capacity and resources at its

disposal, especially the role of the Commission has expanded. The Commission is increasingly operating in areas where it did not previously do so, for example in the field of security. Its ambitions in this field have also increased, as evidenced by its plans to establish a Commission-led intelligence service and the launch of an emergency mechanism to make it easier for military troops to cross intra-EU borders without national permission. At the same time, its competences stretch as far as Member States allow. Paradoxically, it is precisely in times of crisis when firm and coordinated action is so badly needed that the willingness among Member States to share or transfer power is not self-evident. Crisis management in the EU is therefore a matter of both cooperation and a turf war between the institutions.

This report delves into the question of whether the various EU institutions and Member States cooperate and share competences effectively in times of crisis, and whether they do so without compromising the EU's institutional balance. To do so, the report compares three intentionally caused crises: the increasing cases of (suspected) sabotage of critical infrastructure in the Baltic Sea, the Belarus-EU border/migration crisis and the energy crisis following the Russian invasion of Ukraine. While the first entails a policy area within the security field where the EU has limited powers and where, in principle, Member States take decisions unanimously, the latter two cases entail policy areas where the EU institutions share competences with the Member States. In this way, it is possible to compare different institutional interplays and their impact on the effectiveness of EU actions. Conclusions are based on an analysis of official policy documents, secondary literature, and a series of interviews.

The report shows that in time of crisis, a jumble of EU institutions and agencies are involved in the coordination and management of cross-border responses, some more intergovernmental while others more supranational. In the event of (suspected) sabotage in the Baltic Sea, effectiveness is jeopardized by operational and legal ambiguity. Decision-making in the event of deliberate sabotage rests primarily with the Member States acting through the Council. Here, swift decision-making is complicated by the unanimity requirement for foreign and security policy. The Commission's role in this area is limited, but it does take the lead when it comes to resilience and recovery. A more effective crisis response would rest on a "one-team" approach where the Commission's operational capacity and the Council's political authority act in concert. While enhanced EU involvement could improve coordination and implementation,

concerns over sovereignty, intelligence sensitivities, and defence competences continue to limit supranational engagement.

In both the Belarus-EU border crisis and the energy crisis, the Commission has proven itself as crisis manager. During the Belarus-EU migration crisis, the Commission acted quickly by proposing tightened sanctions, setting up a coordination network, and providing operation and financial support to affected countries. However, these measures were unable to prevent a humanitarian crisis at the EU borders. In the long-absence of agreement on when countries may deviate from EU law in cases of instrumentalization of migration, Member States were given considerable leeway by the Commission to act independently, thereby preventing common responses based on EU law. In the case of the energy crisis, regulations were adopted much faster. However, these were mainly temporary regulations based on the above-mentioned Article 122, allowing the Council to decide without involvement of the EP.

Looking ahead, improving the EU's crisis management requires clearer role divisions, stronger coordination mechanisms, and better information flows between Member States and institutions (while taking into account certain sensitivities regarding such flows). This requires, however, mutual trust and the political will among Member States to delegate powers to EU institutions for the sake of solidarity and European security.

In particular, it is important to:

- **Clarify responsibilities** in hybrid and cross-border crises, specifying when the Council and Member States retain primacy and when the Commission should lead operational coordination.
- **Strengthen inter-institutional interoperability** by establishing a standing coordination arrangement linking the Council, Commission, and EEAS to reduce fragmentation and enable shared situational awareness.
- **Improve information-sharing structures** by ensuring timely exchange across institutions, agencies, and with NATO to overcome the intelligence and coordination gaps exposed by recent crises.
- **Strengthen the Commission's efforts in law enforcement** in areas on which the EU shares competences with Member States in order to safeguard its role as guardian of the treaties and the credibility of the Union as such.
- **Balance emergency action with democratic scrutiny** by ensuring that the use of exceptional powers remains transparent and proportionate without undermining the speed of response.

1 Introduction

In times of crisis, it is crucial to act fast and to do so without unduly compromising democratic control. This is not always easy. Not at the national level, and certainly not at the level of the European Union (EU) – where competences are shared across different institutions and 27 Member States. Over the past years, various crises have shaken Europe, from the COVID-19 pandemic to the full-scale Russian invasion of Ukraine. As most crises transcend national borders, responses have been increasingly developed at EU level. Many of the current hybrid threats are blurring the boundaries between the economic domain (where the EU institutions share competences with the Member States) and the security domain (where EU competences are limited). The pressure on the EU to act regardless has led to a significant expansion of the EU’s crisis toolkit, aimed at coordinating responses and ensuring solidarity between Member State. Effective use of the EU’s toolkit requires the EU and its Member States to cooperate and share power – between themselves and with NATO – and to do so in a way that respects the EU’s division of competences and institutional balance.

The EU Treaties entail several clauses to enhance the EU’s capacity to act and to speed-up decision-making in times of crisis. Such emergency clauses grant the European Commission (hereafter: Commission) and the Member States in the Council of the EU (hereafter: the Council) the power to make decisions quickly and to deviate from the ordinary legislative procedure, thereby excluding the European Parliament (EP) in areas where it has co-decision powers. This is not much different at national level, where the executive can also invoke emergency powers at the expense of the legislative. However, the trade-off between effectiveness and institutional balance is even more challenging in the EU’s multilevel governance framework, where both national and European interests are at stake next to democratic scrutiny.¹

During recent crises, the Commission has often used its regulatory authority to take on a lead role as crisis manager and made use of the scope granted under

1 The concept of multi-level governance to explain EU governance was first introduced by Liesbeth Hooghe and Gary Marks. 2001. “[Multi-Level Governance and European Integration](#)”, *Bloomsbury Academic*.

the Treaties. This was particularly evident during the COVID-19 pandemic, when the Commission acted swiftly by introducing far-reaching measures. Notably the European Union Recovery Instrument (EURI) – paving the way for granting Member States with financial support – was adopted in the Council at breakneck speed without involvement of the EP.² This circumvention of the lengthy decision-making process involving both the Council and the EP seems indicative of a general trend. As Gallinella and Christiansen (2024) argue: ‘In times of crises, under enormous time pressure and in a politically highly charged context, the European Commission and the Member States have favoured informal arrangements and quick decisions rather than pursuing the traditional legislative route’.³

Next to an expansion of instruments, successive crises have also led to an expansion of the Commission’s ambitions.⁴ Examples are its plans to establish a Commission-led intelligence service and the launch of an emergency mechanism to make it easier for military troops to cross intra-EU borders without national permission (the so-called ‘Military Mobility Package’).⁵ Such plans imply a greater role for the Commission in areas where it has not yet been active. Yet, whether the Commission can increase its scope depends on whether the Member States in the (European) Council allow it to do so.⁶ Paradoxically, it is precisely in times of crisis when coordination and unity is so badly needed that the willingness among Member States to share power is not self-evident.

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- 2 Saskia Hollander, Andrea Capati and Marta Riggio. 2025. “[The recovery and resilience facility: success model or democratic deficiency? | Clingendael](#)”, *Clingendael Institute*.; Giorgio Gallinella and Thomas Christiansen. 2024. “[Delegated Rule-making in Times of Crisis: New Challenges for Democratic Scrutiny?](#)”, *European Journal of Risk Regulation* vol. 15, no. 4, p. 812–826.; Saskia Hollander, Andrea Capati and Marta Riggio, “[The recovery and resilience facility: success model or democratic deficiency? | Clingendael](#)”.
 - 3 Giorgio Gallinella and Thomas Christiansen. 2024. “[Delegated Rule-making in Times of Crisis: New Challenges for Democratic Scrutiny?](#)”.
 - 4 Giorgio Gallinella and Thomas Christiansen. 2024. “[Delegated Rule-making in Times of Crisis: New Challenges for Democratic Scrutiny?](#)”, p. 816.
 - 5 “[European Commission weighs creation of intelligence arm amid global tensions | Reuters](#)”, *Reuters*, 11 November 2025.; Charles Cohen. 18 November 2025. “[Commission to pitch defence Schengen in times of crisis under Military Mobility Package | Euractiv](#)”, *Euractiv*.
 - 6 Andrea Capati, et al. 2025. “[The elephant in the room: the European Council’s dominance in core state powers during times of crisis](#)”, *Journal of Contemporary European Studies*.

Research questions and case-selection

Crisis management in the EU is, hence, a matter of both inter-institutional cooperation and battle. This report delves into the question of whether the EU's crisis toolkit is effective. It also analyses whether and how the various EU institutions and Member States cooperate in times of crisis, and whether they do so without compromising the EU's institutional balance. To answer these questions, the report focusses on three crises occurring within the EU borders, namely the i) increasing cases of (suspected) sabotage of critical infrastructure in the Baltic Sea, ii) the Belarus-EU border/migration crisis, and iii) the energy crisis following the Russian invasion of Ukraine.

Before delving into these cases, *Chapter 2* provides an overview of the EU's framework that underlies its crisis toolkit. *Chapter 3* focuses on (suspected) sabotage of critical infrastructure in the Baltic Sea. Since this is primarily a matter of national competence, the chapter also briefly outlines how the EU responses to sabotage of critical infrastructure relate to national – in this case, Dutch – responses. *Chapter 4* analyses the Belarus-EU border/migration crisis starting in 2021 with Belarus sending refugees across the border into the EU on a large scale. *Chapter 5* focuses on the energy crisis starting in 2022 following the Russian invasion of Ukraine. For each case, the analysis is based on official documents, secondary literature, and a series of interviews. Finally, *Chapter 6* summarizes the overall conclusions and based on these, provides several recommendations for national and EU policy makers.

2 The EU's legal framework for crisis management

EU institutions play an important role in managing crises that transcend national borders, even though crisis management has traditionally been an issue of national sovereignty. In recent years, various EU instruments and legislation were put in place, enabling the EU institutions to act quickly and jointly. The EU has done so on the basis of various legal frameworks – reflecting the multidimensional nature of recent crises. The instruments and legislations relate – among others – to foreign policy and security, the internal market, and the protection and health of EU citizens. Before discussing the legal basis for emergency measures, this chapter first provides an overview of the division of competences in different crisis situations.

2.1 EU competences in crisis responses

The EU can only act within the limits of the powers conferred on it by the Treaties.⁷ On certain areas, the EU has exclusive competences, for example on the areas of competition rules and trade policy.⁸ On other areas, competences are shared between the EU and the Member States, for example on the internal market, energy policy, freedom, security and justice and development cooperation.⁹ In these areas, policies are in general decided upon through the ordinary legislative procedure, meaning joint decision-making by the Council (deciding on the basis of a qualified majority) and the EP based on a proposal of the Commission. Finally, on certain areas, the EU only has supporting competences, meaning that the EU can only intervene to support, coordinate or complement Member States. This applies for example in the areas of health and civil protection.¹⁰

7 [“Division of Competences within the European Union”](#), EUR-LEX.

8 Treaty on the Functioning of the European Union, art. 3: [EUR-Lex - 12008E003 - EN - EUR-Lex](#).

9 Treaty on the Functioning of the European Union, art. 4: [EUR-Lex - 12016E/TXT - EN - EUR-Lex](#).

10 Treaty on the Functioning of the European Union, art. 6: [EUR-Lex - 12016E/TXT - EN - EUR-Lex](#).

The responsibility for the Common Foreign and Security Policy (CFSP) and the Common Security and Defence Policy (CSDP) rests primarily with the Member States who should act unanimously, except where the Treaties provide otherwise (Article 24(1) TEU). On these areas, there is limited participation of the Commission and the EP.¹¹ Moreover, this area principally falls outside the remit of the Court of Justice of the European Union (CJEU).

EU powers in the event of a crisis therefore depend on its nature. Many of the threats the EU is facing are hybrid in nature, meaning that they have an impact on multiple dimensions. The question of who is in charge then depends on the specific responses. Some threats require an economic response, which could be one type of response in the event of economic coercion (next to for example diplomatic ones). On this area the EU has a shared competence, meaning that decisions are made by the Council and the EP, with a clear agenda-setting role of the Commission. Other threats require responses in the security domain, for example in the case of intentional disruption of satellite signals. In this area, Member States are primarily responsible, and supranational institutions play a facilitating role. Most cyberattacks touch upon physical, civil and economic security. Such threats have a cross-border impact and therefore require EU action within the – sometimes ambiguous – limits of the Treaties. This explains the diverse patchwork of legal and technical crisis instruments.

Of the three cases investigated in this study, two – namely the Belarus-EU migration crisis and the energy crisis – fall within areas of shared competence. When it comes to the case of disruption to critical infrastructure in the Baltic Sea, the governance model becomes more hybrid and dependent on whether the disruption is intentional or not. In case of the first, the threat falls within the security domain, making it a primary competence of Member States (and NATO), with a limited role of the EU's supranational institutions. When the disruption is unintentional, and hence, implies no intentional security threat, the role of the EU institutions is more pronounced. To sum up, decisions in times of crisis are made by various institutions, depending on impact and competence areas. This makes decision-making on crisis responses complex and, above all, fragmented.¹²

11 Treaty on European Union, art. 24: [EUR-Lex - 12016M/TXT - EN - EUR-Lex](#); Treaty on European Union, art. 42: [EUR-Lex - 12016M/TXT - EN - EUR-Lex](#).

12 Elena Lazarou and Panos Politis Lamprou. 2025. “EU Preparedness: From Concept to Strategy?”, *European Parliamentary Research Service*.

One way to enhance the effectiveness of the EU's crisis management in light of this fragmentation is to enforce harmonisation of responses across Member States – for example by formulating responses in areas where the EU has competences like the internal market. For instance, both the directive on a high common level of cybersecurity across the Union (the NIS2 Directive) and the regulation on setting up the European Agency for Cybersecurity (ENISA) were formulated under the legal basis for harmonization of national legislation in the field of the internal market (i.e. Article 114 TFEU).¹³ This, moreover, applies to a great deal of legislation that has been passed in the area of economic security, such as the Critical Raw Material Act (CRMA).¹⁴

Another way to enhance effectiveness is to simplify decision-making. The EU treaties provide for several clauses that grant the executives (i.e. Member States in the Council and the Commission) the power to act beyond the ordinary legislative procedure. In such cases, the Council (usually by a qualified majority) votes on crisis measures based on a proposal from the Commission, without involvement of the EP. This certainly enables the Union to act swiftly, but at the expense of the democratic process. The provisions offered by the treaties are explained in the following section.

2.2 Emergency clauses in the EU treaties

The EU Treaties include provisions enabling the EU institutions to invoke crisis measures in case of emergency or when solidarity is called upon (see Box 1). Those provisions are found in the Treaty on European Union (TEU), but mainly in the Treaty on the Functioning of the European Union (TFEU). The following paragraphs outline the emergency provisions that are relevant for the three cases under investigation.

13 [“Directive - 2022/2555 - EN - EUR-Lex”](#); [“Regulation - 2019/881 - EN - EUR-Lex”](#); Treaty on the Functioning of the European Union, art. 114: [EUR-Lex - 12008E114 - EN - EUR-Lex](#).

14 [“Regulation - EU - 2024/1252 - EN - EUR-Lex”](#).

2.2.1 Treaty on European Union

Article 42(7) TEU

Article 42(7) TEU, or the ‘mutual assistance clause’, states that in the event of armed aggression against an EU Member State on its territory, the other Member States have the obligation to provide assistance by all the means in their power. Once activated, the clause is binding to Member States. Yet, it does not override national sovereignty, because the nature of assistance is up to individual Member States to decide. The clause is invoked by the affected Member State. The Presidency of the Council could decide to invoke the *Integrated Political Crisis Response* (IPCR) to coordinate responses.¹⁵ The article was introduced in the Treaty of Lisbon in 2007, but dates back to the Brussels Treaty of 1948 and the Paris Agreements of 1954.¹⁶ The clause has only been activated once, namely by France in 2015 after the terrorist attacks in Paris.

Box 1 Emergency provisions in the EU Treaties

Article 42(7) TEU	‘If a Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States. Commitments and cooperation in this area shall be consistent with commitments under the North Atlantic Treaty Organisation, which, for those States which are members of it, remains the foundation of their collective defence and the forum for its implementation.’
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15 The Integrated Political Crisis Response (IPCR) is an instrument in the hands of the Presidency of the Council of the EU to coordinate EU responses in the case of natural disasters or man-made crisis.

16 Bob Deen, Dick Zandee and Adája Stoetman. 2022. [“Uncharted and uncomfortable in European Defence: the EU’s mutual assistance clause of Article 42\(7\)”](#), Clingendael Institute.

Article 78(3) TFEU	‘In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.’
Article 122 TFEU	(1) ‘Without prejudice to any other procedures provided for in the Treaties, the Council, on a proposal from the Commission, may decide, in a spirit of solidarity between Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy.’
	(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, the Council, on a proposal from the Commission, may grant, under certain conditions, Union financial assistance to the Member State concerned. The President of the Council shall inform the European Parliament of the decision taken.’
Article 222 TFEU	(1) ‘The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to: <ul style="list-style-type: none"> (a) – prevent the terrorist threat in the territory of the Member States; – protect democratic institutions and the civilian population from any terrorist attack; – assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack; (b) assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster.’
	(2) ‘Should a Member State be the object of a terrorist attack or the victim of a natural or man-made disaster, the other Member States shall assist it at the request of its political authorities. To that end, the Member States shall coordinate between themselves in the Council.’
	(3) ‘The arrangements for the implementation by the Union of the solidarity clause shall be defined by a decision adopted by the Council acting on a joint proposal by the Commission and the High Representative of the Union for Foreign Affairs and Security Policy. The Council shall act in accordance with Article 31(1) of the Treaty on European Union where this decision has defence implications. The European Parliament shall be informed. For the purposes of this paragraph and without prejudice to Article 240, the Council shall be assisted by the Political and Security Committee with the support of the structures developed in the context of the common security and defence policy and by the Committee referred to in Article 71; the two committees shall, if necessary, submit joint opinions.’
	(4) ‘The European Council shall regularly assess the threats facing the Union in order to enable the Union and its Member States to take effective action.’

Nb. This list is not exhaustive but only includes those provisions relevant for the three cases under investigation.

2.2.2 Treaty on the Functioning of the European Union

Article 78(3) TFEU

Article 78(3) TFEU can be invoked by the Council in response to an emergency stemming from a sudden inflow of people from third countries that threatens the functioning of the EU's asylum system. It was introduced in the Treaty of Amsterdam (1997). Although asylum and migration policy is a shared competence of the EU, the EP is only consulted when Article 78(3) is invoked. Based on a proposal by the Commission, and after consultation of the EP, the Council decides on such emergency measures on the basis of QMV.

Article 122 TFEU

Article 122 provides for emergency measures of economic or financial nature.¹⁷ First, Article 122(1) allows the Council to adopt a wide variety of emergency measures by QMV in a spirit of solidarity if found appropriate to the economic situation. Yet, it is vague which economic situations identify as emergency or crisis as such. A similar provision was already included in the Treaty of Rome (1957). Secondly, Article 122(2) TFEU allows the Council to provide temporary financial assistance to a Member State. Both provisions under Article 122 provide for non-legislative measures, meaning that the EP is not included in the decision-making process. Although Article 122 explicitly refers to difficulties in the area of energy, its scope is broader, as it can also be invoked for measures related to other economic sectors.

Article 222 TFEU

Article 222, or the 'solidarity clause', obliges the EU and its Member States to act jointly in response to terrorist attacks or natural or man-made disasters beyond a Member State's own response capacity. It is confined to the EU territory. Similar to the 'mutual defence clause' under Article 42(7), invoking the solidarity clause is a prerogative of the Member State affected. The clause was introduced in the Treaty of Lisbon (2007). The response is decided upon by the Council on the basis of QMV after a joint proposal by the Commission and the High Representative of the Union for Foreign Affairs and Security Policy (HR/VP). When this decision has defence implications, the Council shall decide on the basis of unanimity. The EP is only informed. The legal basis of Article 222 was further specified by a Council

¹⁷ Treaty on the Functioning of the European Union, art. 122: [EUR-Lex - 12012E122 - EN - EUR-Lex](#).

Decision on its implementation in June 2014.¹⁸ It stipulates that the clause ‘calls for the Union to mobilise all the instruments at its disposal.’ Relevant instruments include the *European Union Internal Security Strategy* and the *European Union Civil Protection Mechanism*. The decision also provides for an immediate activation of the IPCC, which allows for a rapid involvement of the political authorities across the EU.¹⁹

In addition to these provisions, the Treaties also include emergency provisions to promote financial stability in the EU (i.e. 143(2) TFEU) and for the granting of state aid to address serious economic disturbances (i.e. Article 107(3)(b) TFEU).

Secondary law also provides for a wide range of crisis measures, for example to protect the internal market – including the Internal Market Emergency and Resilience Act (IMERA) (Regulation (EU) 2024/2747)– or to promote cyber security – including the Cyber Solidarity Act (Regulation (EU) 2025/38).²⁰ It also includes several financial instruments, such as the EU Solidarity and Emergency Aid Reserve (SEAR) and the Flexibility Instrument,²¹ as well as information and coordination facilities like the European Union Intelligence and Situation Centre (INTCEN), the Emergency Response Coordination Centre (ERCC) and the Critical Entities Resilience Group (CERG). Although it is beyond the scope of this report to discuss the full toolkit in its entirety, it suffices to state that the toolkit is well-stocked and involves a wide range of institutions and agencies in its implementation.

This institutional bustle has an impact on the toolkit’s effectiveness and on the nature and effectiveness of inter-institutional cooperation. The next chapter analyses the pallet of crisis-instruments that the EU has in the event of sabotage of critical infrastructure in the Baltic Sea. In this security domain, Member States are in charge, but there is a growing role for EU institutions in terms of coordination and enhancing resilience. Is the EU toolkit effective?

18 [“Decision - 2014/415 - EN - EUR-Lex”](#).

19 [“Implementation of the solidarity clause”](#), Council of the European Union, 2014.

20 [Regulation - EU - 2024/2747 - EN - EUR-Lex](#) and [Regulation - EU - 2025/38 - EN - EUR-Lex](#).

21 [“Flexibility and special instruments - European Commission”](#), European Commission, Directorate General for Communication, 2021.

And, importantly, can the toolkit be strengthened, thereby taking into account the division of competences? Thereafter, Chapter 4 and 5 address two cases where the EU explicitly shares competences with the Member States, namely the Belarus-EU migration crisis (Chapter 4) and the energy crisis (Chapter 5). In these cases, the Commission assumed its role as crisis manager within the framework provided to it. Did this lead to effective responses? And did the responses do justice to the institutional balance within the Union?

3 The Baltic Sea case: Testing the EU crisis instruments in a hybrid maritime environment

Subsea critical infrastructure is indispensable but acutely vulnerable. Subsea data and power cables – alongside offshore oil and gas pipelines – form the circulatory system of the modern digital and energy economy. Over 97 percent of global data traffic flows through these cables rather than satellites, enabling financial transactions, cloud computing, and cross-border electricity exchange.²² Each year, roughly 150 incidents of cable damage are recorded worldwide, mostly accidental, yet around 20 percent remain unexplained, providing opportunities for covert interference.²³

This also applies to critical infrastructure incidents in the Baltic Sea. The Baltic Sea represents a region of both dense allied presence and direct proximity to Russia, hosting critical digital and energy links between Finland, Estonia, Sweden, Germany, and Poland. Especially since 2022, multiple incidents, including damage to the *Balticconnector* gas pipeline and successive disruptions of data cables, have demonstrated the region's vulnerability to hybrid interference. Investigations have pointed to Russian and Chinese commercial vessels operating as “shadow fleets,” whose opaque ownership and irregular navigation patterns suggest dual-use capabilities.²⁴ Such incidents illustrate what Praks (2024) calls the “*sub-threshold hybrid challenge*”: operations designed to cause strategic disruption while remaining below the legal and political thresholds of armed attack.²⁵

These dynamics underscore the blurred line between economic competition and security confrontation and illustrate how ambiguity at sea can complicate the Union's ability to respond decisively. They also reveal the inherent limitations

22 Henri van Soest, et al. 2025. “[Undersea Cables: Evidence submission by RAND Europe | RAND](#)”, RAND.

23 Claudiu Codreanu. 2025. “[Crossing the line: Severing undersea internet cables in geopolitical hotspots](#)”, Romanian Diplomatic Institute.

24 Ibid.

25 Henrik Praks. 2024. “[Russia's hybrid threat tactics against the Baltic Sea region: From disinformation to sabotage](#)”, Hybrid CoE.

of the EU's crisis role in this domain, where regulation and coordination are EU responsibilities, but operational defence remains firmly anchored in NATO and the Member States.

This chapter analyses the Baltic Sea as a ground for the EU's crisis instruments, examining how effectively the Union can respond to hybrid attacks on critical infrastructure and how inter-institutional relations function under pressure. It serves as a stress test of the EU's ability to coordinate across institutional boundaries, to connect technical detection with political decision-making, and to operate alongside NATO within the constraints of the Treaties. The chapter also draws on the Netherlands as a reference Member State to illustrate how EU crisis instruments interface with national crisis-management mechanisms. The Dutch example is used throughout the scenario analysis to show how a national system, spanning maritime security, cybersecurity, and civil protection, links into EU-level coordination structures during hybrid incidents.

3.1 The EU's evolving legal framework for critical infrastructure resilience

Hybrid operations combine military, informational, and economic means to exploit ambiguity and delay attribution. In the maritime domain, such actions target infrastructure that is essential yet largely invisible. The Baltic region has become a focal point of Russian hybrid activity, blending cyberattacks, disinformation, and suspected sabotage.²⁶ The seabed offers ideal conditions for such operations. It is difficult to access physically, legally fragmented, and weakly governed under international law.

The United Nations Convention on the Law of the Sea (UNCLOS)²⁷ grants limited protection to subsea cables beyond territorial waters, leaving a substantial portion of global infrastructure exposed to interference. Meanwhile, the proliferation of Uncrewed Underwater Vehicles (UUVs) enables smaller actors to conduct surveillance or sabotage at depth. UUVs are transforming the seabed into a new domain of strategic competition, lowering the technical and financial threshold for underwater operations.²⁸

26 Ibid.

27 "[United Nations Convention on the Law of the Sea](#)", *United Nations*, 1982.

28 Ash Rossiter. 2025. "[Cable risk and resilience in the age of uncrewed undersea vehicles \(UUVs\) - ScienceDirect](#)", *Marine Policy vol 171*. [Cable risk and resilience in the age of uncrewed undersea vehicles \(UUVs\) - ScienceDirect](#).

In this environment, the distinction between civilian infrastructure and strategic assets becomes increasingly blurred. Maritime incidents that begin as technical anomalies can rapidly evolve into political or security challenges, particularly when attribution is unclear or contested. This reinforces a central theme of this report: the EU's ability to respond to hybrid threats depends not only on legal competences, but also on the speed of cross-institutional information-sharing and the willingness of Member States to politically escalate ambiguous incidents. These dynamics, furthermore, underscore the blurred line between economic competition and security confrontation. They also reveal the legal and operational limitations of the EU's competence in security affairs, still divided between civilian coordination at EU level and defence responsibilities belonging to the Member States, many of which are NATO members.

The EU has gradually assembled a comprehensive resilience architecture linking cybersecurity, physical protection and political crisis management. Key instruments include:

- **EU Cybersecurity Strategy**²⁹ – aims to build resilience to cyber threats and ensure citizens and businesses benefit from trustworthy digital technologies.
- **NIS2 Directive**³⁰ – cybersecurity obligations and incident reporting for essential service operators; supported by ENISA and the CSIRT Network.
- **EU Cyber Solidarity Act**³¹ – establishes measures aimed at reinforcing solidarity and bolstering the Union's capacity to prevent, prepare for, detect, and respond to cyber threats and incidents.
- **Cyber Resilience Act**³² – the Cyber Resilience Act: aims to safeguard consumers and businesses buying software or hardware products with digital elements.
- **EU blueprint for cyber crisis management**³³ – details the principal actors and mechanisms involved, specifying roles and responsibilities at every stage of a cyber crisis.

29 ["Regulation - 2019/881 - EN - EUR-Lex"](#).

30 ["Directive - 2022/2555 - EN - EUR-Lex"](#).

31 ["EU Cyber Solidarity Act | Shaping Europe's digital future"](#), European Commission, Directorate-General for Communication Networks, Content and Technology, 2025.

32 [Regulation - 2024/2847 - EN - EUR-Lex](#).

33 [EUR-Lex - 32025H03445 - EN - EUR-Lex](#).

- **EU CSIRTs network**³⁴ – contribute to the development of confidence and trust and to promote swift and effective operational cooperation among Member States.
- **The EU-CyCLONe**³⁵ - European cyber crisis liaison organisation network, is a cooperation network for the national authorities of Member States in charge of cyber crisis management.
- **Critical Entities Resilience (CER) Directive**³⁶ – strengthens physical resilience planning by critical entities.
- **Commission Recommendation on Secure and Resilient Submarine Cable Infrastructures**³⁷ – promotes joint mapping, annual risk reviews and cooperation through the Submarine Cable Expert Group.
- **Union Civil Protection Mechanism (UCPM) & ERCC** – coordinates emergency assistance.
- **EEAS Hybrid Fusion Cell**³⁹ – aggregates strategic intelligence on hybrid threats.
- **Integrated Political Crisis Response**⁴⁰ (**IPCR**) – enables political coordination across Member States.
- **EU Solidarity Fund**⁴¹ – provides financial assistance after major disruptions.
- **Treaty clauses** (Articles 222 TFEU and 42(7) TEU) – provide legal bases for solidarity or mutual defence, depending on attribution and severity.
- **European Council Working Parties** – Assembles Member States at technical or expert level, thereby enabling various countries to cooperate in regards to short and long-term threats.

34 [“CSIRTs Network”](#), European Union Agency for Cybersecurity, 2025.

35 [“EU CyCLONe | ENISA”](#), European Union Agency for Cybersecurity, 2025.

36 [“Directive - 2022/2557 - EN - CER - EUR-Lex”](#).

37 [“EUR-Lex - 32024H0779 - EN - EUR-Lex”](#); [“Directive - 2022/2557 - EN - CER - EUR-Lex”](#).

38 [“EU Civil Protection Mechanism - European Civil Protection and Humanitarian Aid Operations”](#), European Commission, Directorate-General for European Civil Protection and Humanitarian Aid Operations (ECHO), 2025.

39 [“A Europe that Protects: Countering Hybrid Threats | EEAS”](#), European External Action Service, 2018.

40 [“How the Council coordinates the EU response to crises - Consilium”](#), Council of the European Union and the European Council, 2024.

41 [“EU Solidarity Fund”](#), European Commission, Directorate-General for EU regional and urban policy, 2025.

In addition, the EU has developed response-oriented instruments, including the **Hybrid Toolbox**⁴², the **Cyber Diplomacy Toolbox**⁴³, and the **Foreign Information Manipulation and Interference (FIMI) Toolbox**⁴⁴. These tools are primarily geared towards attribution, signalling, sanctions, and diplomatic response vis-à-vis an identified actor, rather than continuous resilience-building or the operational management of crisis consequences. Taken together, these instruments form a “whole-of-EU” toolbox that combines regulatory, operational and political mechanisms. Their activation depends on Member State initiative, often deployed in the most relevant European Council Working Party such as the HWP ERCHT or the HWPCI. Using such instruments remains politically sensitive, and member states often operate with limited information.

The Baltic Sea case therefore exposes a structural dilemma: while the EU has strong tools for resilience and coordination, it lacks operational authority in the hard-security domain, requiring close cooperation with NATO and national authorities.

3.2 NATO frameworks and EU-NATO coordination

The Nord Stream explosions (2022) were a turning point for transatlantic maritime security.⁴⁵ NATO established the Maritime Centre for the Security of Critical Undersea Infrastructure (MARCOM) and, by 2025, launched Operation Baltic Sentry, a surveillance mission using drones and minehunters to protect subsea networks.⁴⁶ A Commander Task Force Baltic HQ was set up in Germany in late 2024 to better coordinate allied naval operations in the region.⁴⁷ In parallel, the UK-led Joint Expeditionary Force (JEF) activated Nordic Warden⁴⁸,

42 [“Hybrid threats - Consilium”](#), Council of the European Union and the European Council, 2025.

43 [“Sanctions against cyber-attacks - Consilium”](#), Council of the European Union and the European Council, 2025.

44 [“Information Integrity and Countering Foreign Information Manipulation & Interference \(FIMI\) | EEAS”](#), The European External Action Service, 2025.

45 Adam Easton and Megan Fisher. 30 September 2025. [“Ukrainian diver wanted over Nord Stream pipeline blasts arrested in Poland”](#), BBC.

46 [“NATO launches ‘Baltic Sentry’ to increase critical infrastructure security | NATO News”](#), North Atlantic Treaty Organization, 14 January 2025.

47 Filip Bryjka. 2025. [“NATO and the EU Respond to Russian Maritime Sabotage”](#), Polish Institute of International Affairs.

48 Ibid.

an information-sharing and surveillance initiative using autonomous systems to detect underwater threats. These efforts aim to reduce response times and deter malign activities by increasing allied presence on (and under) Baltic waters.

Institutionally, EU–NATO cooperation in this area has deepened since the Joint Declarations of 2016, 2018 and 2023.⁴⁹ NATO provides the deterrence and defence component, while the EU contributes political legitimacy, financial instruments, and civilian coordination.⁵⁰ However, cooperation remains constrained by information-classification rules. Military intelligence held by NATO or Member States cannot easily be integrated into EU civilian systems, resulting in parallel but not fully interoperable situational pictures. This asymmetry becomes particularly problematic during ambiguous or sub-threshold incidents, when early political decisions rely heavily on incomplete information. Given these institutional constraints, it is necessary for respective member states to ensure that their lines of effort regarding the EU and NATO facilitate cooperation and complementarity between both organizations in the event of a crisis or imminent threat.

49 [“EU-NATO joint declaration”](#), *General Secretariat of the Council of the EU*, 2016.; [“Joint Declaration on EU-NATO Cooperation | NATO Media advisory”](#), *North Atlantic Treaty Organization*, 2018.; [“Joint Declaration on EU-NATO Cooperation | NATO Official text”](#), *North Atlantic Treaty Organization*, 2023.

50 Maurizio Geri. 2025. [“A New Strategic Responsibility for the EU: EU-NATO Cooperation against Hybrid Warfare from Russia”](#), *The Rest: Journal of Politics and Development*.

3.3 Fragmented governance and limited accountability

Most subsea cables are owned by private consortia, which limits state oversight.⁵¹ The EU lacks an operational body with legal authority to monitor or protect subsea assets. The *Submarine Cable Expert Group* is advisory. The European Union Agency for Cybersecurity (ENISA) and the European Maritime Safety Agency (EMSA) manage cyber and maritime safety but cannot handle classified security intelligence. Within the cyber domain, coordination between national Computer Security Incident Response Teams through the CSIRT Network (Computer Security Incident Response Team Network) facilitates information-sharing on incidents affecting critical operators. Yet, its mandate remains technical and non-operational. At the same time, the Cyber Crisis Liaison Organisation Network (CyCLONe) is the EU-level network for coordinating the management of large-scale cyber crises

The fragmentation affects escalation dynamics. Technical bodies may detect anomalies, but without clear links to political decision-making, early warnings may not translate into timely EU-level action. The Baltic Sea incidents illustrate how the absence of a dedicated EU operational authority for subsea security complicates accountability and response. The limits of EU authority in this field – strong on regulation, weak on enforcement and defence – thus set the stage for the scenario analysis that follows.

It also means that the NATO's and EU crisis responses are furthermore linked to national crisis structures – for example in the Netherlands. By way of example, Box 2 outlines how the EU crisis response links to Dutch crisis structures.

51 Examples are Google, Meta, Alcatel Submarine Networks: <https://www.csis.org/analysis/safeguarding-subsea-cables-protecting-cyber-infrastructure-amid-great-power-competition>

Box 2 The Netherlands: National Crisis Structures and EU Linkages

The Netherlands maintains a **multi-layered crisis-management system** linked to **EU and NATO frameworks**, ensuring coordination across cyber, maritime, and hybrid domains.

- The **National Coordinator for Counterterrorism and Security (NCTV)**⁵² acts as the Netherlands' national early-warning and escalation authority, assessing the security and societal impact of incidents through its Front Office and its interdepartmental tie. The **National Crisis Centre (NCC)**, part of the NCTV, serves as the 24/7 national contact point for crises and disasters.
- Where incidents risk significant societal disruption or national security implications, the government may activate the national crisis structure, comprising the **Interdepartmental Coordination Meeting (IAO)**, the **Interdepartmental Crisis Management Committee (ICCb)**, and the **Ministerial Crisis Management Committee (MCCb)**. The IAO facilitates interdepartmental information-sharing and coordination but has no role in attribution, which is handled through separate, dedicated processes.
- The **National Crisis Centre (NCC)** functions as the Netherlands' 24/7 crisis coordination hub and primary interface with Brussels for **the Union Civil Protection Mechanism (UCPM)**. It acts as the national Single Point of Contact (SPoC) for the **Emergency Response Coordination Centre (ERCC)**, the operational core of the UCPM, receiving assistance requests and coordinating potential support with relevant ministries.
- The **Ministry of Foreign Affairs** coordinates the Dutch input into the Integrated Political Crisis Response (IPCR), in close alignment with the NCC, while the **Permanent Representation of the Netherlands to the EU** represents the Netherlands in IPCR roundtable meetings.
- In parallel to the national crisis structure, the Netherlands may activate the **National Counter Hybrid Response Framework (Rijksbreed Responskader, RBRK)** to organise a whole-of-government response to hybrid threats. The RBRK applies in cases involving malign state actors and is implemented in close coordination with the Ministry of Defence and the Ministry of Foreign Affairs, complementing civilian crisis-management mechanisms.
- The **National Cyber Security Centre (NCSC-NL)**, the **Dutch CSIRT**, is connected to **the EU CSIRT Network, EU-CyCLONE** and **ENISA** under the **NIS2 framework**, providing cyber threat analysis and coordinating incident response. The Netherlands' representation in EU-CyCLONE is organised through the **National Coordinator for Counterterrorism and Security (NCTV)**. The **Interdepartmental (ICCb)** and **Ministerial (MCCb)** Crisis Committees steer national decision-making and align Dutch actions with EU mechanisms.
- **Kustwacht** and **Rijkswaterstaat** maintain maritime awareness and liaise with **EMSA**, neighbouring coast guards, and, via defence channels, **NATO MARCOM** on critical undersea infrastructure. The **Defence Materiel Organisation (DMO)** provides technical repair capacity, coordinated bilaterally,

This structure enables the Netherlands to act as both **receiver and provider** of EU assistance, ensuring operational interoperability while classified-information constraints continue to limit full integration.

52 "National Coordinator for Counterterrorism and Security", Ministry of Justice and Security.

3.4 Scenario framework and analysis

Box 3 outlines three scenarios that illustrate how EU crisis instruments function at increasing levels of complexity, moving from technical management to political coordination and finally to strategic solidarity. They reflect not only different operational realities but also distinct expressions of EU competence: supportive, shared, and security adjacent. This escalation model mirrors the broader analytical framework of the report, in which the EU’s crisis response depends on the interplay between regulatory powers, intergovernmental coordination, and the limits of the Treaties in the defence domain.

Box 3 Three scenarios of disruptions of critical infrastructure

Scenario	Description	EU Crisis Level	Key EU Instruments
1. Ambiguous technical disruption	Faults appear in subsea data cables; cause unclear.	Technical	NIS2, CSIRT Network, CyCLONE, ENISA, Submarine Cable Expert Group, European Council Working Groups
2. Coordinated sabotage	Simultaneous damage to data and power cables; regional disruption.	Political	IPCR (information mode), EEAS Hybrid Fusion Cell, UCPM/ERCC, joint Commission–HR/VP statement, Solidarity Fund discussion, European Council Working Groups
3. Large-scale hybrid attack	Multi-point sabotage across the Baltic with EU-wide impact.	Strategic	IPCR (full activation), Article 222 TFEU, European Council emergency summit, joint Commission/HR proposals, potential 42(7) TEU implications, European Council working groups and political committees.

By structuring the analysis in this way, the scenarios show how technical incidents can become political crises when attribution, scale or geopolitical context shift. They also demonstrate the practical consequences of institutional fragmentation: without clear escalation pathways, the EU’s ability to mobilise instruments rapidly depends heavily on Member State initiative and cross-institutional trust. The next sections provide an overview per scenario of EU responses, inter-institutional information flows, cooperation between EU and NATO and main bottlenecks. An overview is provided in Box 4.

Scenario 1 – Ambiguous technical disruption

Dual faults in subsea data cables between Estonia and Sweden – i.e. the near-simultaneous failure of two separate cable segments within the same corridor – cause latency spikes across Northern Europe. Redundancy prevents a blackout, but concerns arise about potential spillover to financial transactions and cloud services.

EU activation and internal coordination: Operators notify national authorities and ENISA under NIS2. National CSIRTs exchange indicators of compromise and engage in limited cross-border troubleshooting. The Submarine Cable Expert Group is informed but does not escalate the incident.

At this stage, the EU's response remains confined to technical channels. Critically, no procedural link exists between NIS2 reporting and political mechanisms such as the IPCR, meaning that a potentially significant incident may not reach decision-makers until much later.

Interaction with Dutch structures: NCSC-NL participates in the CSIRT Network and discusses relevant developments with the NCTV, which represents the Netherlands in EU-CyCLONe exchanges. The *Nationaal Crisis Centrum* (NCC) monitors developments but does not activate higher-level coordination (ICCb/MCCb). Maritime authorities remain passive observers.

Council–Commission–EEAS interplay: The Commission, via ENISA, is the only actor engaged. The Council and EEAS remain outside the loop unless a Member State actively raises the issue.

Legal space and limitations: The EU operates mainly within its cybersecurity competences, which address disruptions to digital networks but not always physical damage to underlying infrastructure such as subsea cables. As a result, the absence of a clear escalation trigger complicates the detection of when a technical anomaly may signal emerging hybrid activity.

Assessment: The system functions efficiently for a contained technical event, but information remains siloed and does not automatically translate into political awareness. Early warning is hampered by institutional fragmentation.

Scenario 2 – Coordinated sabotage and regional crisis

Within hours, the EstLink2 power cable and several adjacent data lines are cut, causing significant disruption across Finland and the wider Baltic region. A Russian-linked commercial vessel is observed behaving erratically near both sites, raising suspicion of deliberate interference.

At this stage, the solidarity clause (Article 222 TFEU) has not been invoked. In the absence of a formal request by an affected Member State and pending further clarification of attribution and scale, the situation remains under enhanced monitoring.

In parallel, the EEAS Hybrid Fusion Cell (HFC) and EU INTCEN provide both classified and non-classified briefings to Member States, helping to establish a shared situational picture across EU structures. These assessments feed into relevant Council working groups and, where escalation warrants, are also discussed at Political and Security Committee (PSC) or COREPER level, supporting political coordination and informed decision-making within existing national and EU mechanisms.

EU activation and internal coordination: Finland alerts the Commission and EEAS, prompting the Council Presidency to activate the IPCR in information-sharing mode. The EEAS Hybrid Fusion Cell aggregates inputs from ENISA, satellite imagery and Member State intelligence. This feeds into discussion in EU Council groups, both at working levels and the higher political level (COREPER / PSC). The HR/VP and the Commission issue a joint statement condemning deliberate interference. discussions begin on Solidarity Fund support. NATO MARCOM increases maritime patrols, but classified military intelligence cannot be fully integrated into EU civilian systems, producing a fragmented situational picture and reinforcing the structural divide between EU and NATO information regimes.

Council–Commission–EEAS interplay: The **Council** drives political coordination through IPCR and facilitates discussion between the member states. The **Commission** coordinates operational aspects through ERCC and manages funding discussions; and **EEAS** leads diplomatic messaging and engages with NATO. This division of labour aligns with Treaty constraints but still suffers from gaps in the integration of defence-related intelligence.

Legal space and limitations: The incident clearly exceeds technical thresholds but does not meet the criteria for Article 42(7). Member States prefer to keep the response within Article 222's solidarity framework or within standard political coordination to avoid premature escalation to defence obligations.

Assessment: The EU moves from technical to political coordination, but action is hampered by incomplete information and by structural barriers between civilian and military data flows. The system reacts, but not seamlessly. The role and significance of the EU is largely determined by the willingness of targeted member states to raise the issue in various settings, and share relevant information.

Scenario 3 – Large-scale hybrid attack

Multiple subsea cables are disrupted across the Baltic, North Sea and Arctic regions, generating widespread connectivity and energy-flow disturbances with EU-wide impact.

EU activation and internal coordination: The IPCR is fully activated. The European Council holds an emergency summit to set political direction. Continuous information-sharing occurs between Member States, the Commission and the EEAS. In this scenario, several Member States could urge activation of Article 222 TFEU. Discussions arise about whether the scale and coordination of attacks approach the threshold of Article 42(7) TEU, though governments avoid formal escalation to mutual defence mechanisms. EU institutions coordinate repair efforts, emergency electricity rerouting and diplomatic démarches. NATO conducts maritime protection operations and secures repair zones.

Interaction with Dutch structures: The Netherlands activates its national crisis structure and can employ its National Counter Hybrid Framework (RBRK) in tandem. National Crisis Centre (NCC) and the National Cyber Security Centre Netherlands (NCSC-NL) work closely with EU bodies. Dutch maritime assets contribute to repair protection and situational awareness. This shows how a well-developed national framework can serve as a stabilising node in an EU-wide response, but also how dependent EU action is on Member State capabilities.

Council–Commission–EEAS interplay: The **European Council** provides strategic direction and political legitimacy; the **Council**, via full IPCR activation, coordinates daily crisis management; the **Commission** orchestrates operational

repair and resource mobilization; and the **EEAS** leads external messaging and NATO liaison. This configuration demonstrates the multi-layered governance reality of the Treaties: the EU coordinates but cannot command; it mobilises solidarity but depends on Member States and NATO for hard-security execution.

Legal space and limitations: The crisis pushes the EU to the upper limits of its legal competences. Article 222 offers a mechanism for solidarity, but its relationship to Article 42(7) remains politically and legally ambiguous.

Assessment: This is the EU’s most coordinated response across all scenarios, yet *structural constraints remain*, particularly the lack of integrated civil–military intelligence, ambiguity around Treaty thresholds and reliance on Member State assets.

Box 4 Overview of the three scenarios

Dimension	Scenario 1	Scenario 2	Scenario 3
Trigger	Technical fault	Coordinated sabotage	Multi-point hybrid attack
EU response	Technical <ul style="list-style-type: none"> • NIS2/ENISA • CSIRT network engaged • no political escalation 	Political <ul style="list-style-type: none"> • IPCR (information mode) activated • civil protection (UCPM) and diplomatie tools used 	Strategic <ul style="list-style-type: none"> • IPCR full activation • Article 222 Solidarity Clause invoked • European Co
Information flow	Bottom-up <ul style="list-style-type: none"> • technical only • limited sharing beyond operators/CSIRTs 	Partial and fragmented <ul style="list-style-type: none"> • some intel shared through IPCR • gaps between NATO and EU info 	Structured but sensitive <ul style="list-style-type: none"> • comprehensive sharing via IPCR and joint cells • classified military intel handled on side-channels
EU-NATO link	Minimal <ul style="list-style-type: none"> • NATO not formally engaged for what looked like an accident 	Complementary <ul style="list-style-type: none"> • parallel responses (NATO patrols, EU coordination) with some informal exchange 	Integrated <ul style="list-style-type: none"> • oint planning cell; NATO protects repairs while EU manages recovery; unprecedented cooperation
Main bottleneck	Lack of an incident database or early-warning link between technical and political levels.	Classified intel gap no robust system to feed NATO/defence data into EU crisis picture (and vice versa) in real time.	Legal ambiguity: unclear boundary between solidarity (EU civilian action) and collective defence commitments (NATO/EU Treaty), causing hesitation.

3.5 Cross-scenario analysis

Across the three scenarios, several patterns emerge about how the EU manages hybrid maritime crises.

First, **Escalation depends on information, not procedures.** Early detection occurs through technical channels, but there is no automatic escalation from NIS2 reporting to political coordination. Whether incidents rise to EU level depends mainly on Member State initiative.

Second, **Institutional roles shift with crisis intensity.** Technical incidents are handled by the Commission and ENISA; political crises bring the Council and EEAS to the forefront; and strategic crises require European Council direction and close NATO involvement.

Third, **Civil-military information gaps are the main bottleneck.** EU civilian bodies cannot easily access classified NATO or national military intelligence, resulting in incomplete situational awareness and slower decision-making. The member states are therefore the main pivot point where both information flows converge, coordination between the lines of effort regarding NATO and EU is therefore essential.

Fourth, **Political will determines use of Treaty tools.** Even when serious disruptions occur, Member States hesitate to invoke Article 222 (solidarity) or especially Article 42(7) (mutual defence), preferring coordination mechanisms that avoid raising defence implications.

Fifth, **National capacity shapes EU effectiveness.** Well-developed crisis systems, such as those in the Netherlands, integrate quickly into EU mechanisms. But uneven capacity across Member States limits collective responsiveness.

Sixth, there seems to be a lack of an integrated cross-sectoral civilian-military (*whole of society*) approach. Many sectoral groups and responses exist, but there is no obvious point where they come together.

Finally, **EU–NATO cooperation improves with severity but remains incomplete.** Coordination strengthens as crises escalate, yet structural barriers – classification, mandates, and the lack of a shared information hub – prevent full interoperability.

Overall, the EU can scale its response from the technical to the political and strategic level. However, hybrid maritime crises highlight persistent challenges in information-sharing, including varying levels of confidence among Member States, as well as the need for stronger civil–military connectivity. The Baltic Sea case shows that the EU can scale its crisis response, but escalation depends on Member States rather than automatic triggers. Technical agencies detect incidents, yet political action only follows when governments choose to elevate them. As crises intensify, coordination shifts from the Commission to the Council, while NATO provides indispensable security support. National capacities shape how quickly the EU can act, and uneven readiness limits coherence. Overall, the Union’s tools are strong on coordination and resilience but constrained by information gaps, civil–military separation and political caution. Strengthening preparedness requires faster information flows, clearer escalation pathways and closer alignment with NATO and national crisis systems.

3.6 Conclusion and next chapters

The increase in the number of disruptions to critical infrastructure in the Baltic Sea poses a threat which, depending on the intention and the aggressor, requires different crisis responses that must be closely coordinated within the EU and with NATO. This chapter outlined three scenarios of such crisis responses. All in all, regarding the division of labour between the various EU institutions, an optimal institution balance would see the Commission taking a leading role as to the operational coordination and resource mobilisation, while the Council (including the PSC as a preparatory body) ensures strategic guidance. The Council should therefore be informed by the HFC and INTCEN with a comprehensive overview of the situation as soon as possible. The EEAS could provide a supportive role and coordinates relations with third parties. At the same time, granting the Commission such a key role in coordination rests on political will, and up till now, there has been hesitation among key Member States (especially larger ones) to grant the Commission such a role.

This exposes an ultimate dilemma: a strong EU that can take decisive, joint and harmonized action against (hybrid) threats is essential for Europe’s security and autonomy, but it is precisely because of those threats that protecting national interests and sovereignty often takes precedence over (further) EU harmonization. This obviously applies to the security field where the EU has no or only limited competence, but also to areas where the EU does have competence.

Key questions arise as to how much sovereignty countries are willing to transfer to the EU in order to enforce EU-wide solutions and how much leeway the Commission itself takes to prevent unilateral action by Member States.

The next chapters analyse two crises within policy fields where power is in fact shared between the EU and Member States, namely the Belarus-EU migration crisis starting from 2021 (chapter 4) and the energy crisis following the Russian invasion of Ukraine in 2022 (chapter 5). In both cases, national stakes were high, as both asylum and migration and energy prices are electorally sensitive. Moreover, the Commission was given the mandate by Member States to propose joint and harmonized measures. Yet, the Commission dealt with that mandate in different ways. In the case of the migration crisis, it took a long time before new legislation was adopted by the Council, and EP. In the legal vacuum that arose due to the long duration of this process, the Commission allowed national interests to prevail over EU law (enforcement). In the case of the energy crisis, the Commission took a short-cut by invoking the emergency clause of Article 122, thereby sidelining the EP. Did the procedures chosen in both cases ensure an effective response? And did the responses do justice to the institutional balance within the Union? What lessons can be learned for the future?

4 The Belarus-EU border crisis (2021-): Assessing institutional dynamics during a legislative vacuum

In 2021, the Belarusian regime of President Alexander Lukashenko began actively recruiting migrants from third countries (mainly Iraq, Afghanistan and Syria), encouraging and coercing them to cross the border into the EU. Access to Belarus was facilitated by a network of travel agencies, airlines and human traffickers offering trips to Belarus. To make this possible, Belarus liberalised its visa regulations with no fewer than 73 countries. This so-called *instrumentalisation of migration* was intended to destabilise EU countries and was Lukashenko's response to the sanctions imposed on the country by the EU after the rigged elections in 2020 and the violent attacks on civil society.⁵³ It led to a major humanitarian crisis, with many migrants stranded in the freezing cold as they were halted at the Polish, Latvian and Lithuanian borders and unable to return.

4.1 The institutional interplay

The situation at the Belarusian border with Poland, Latvia and Lithuania was already discussed in the European Council (EUCO) in June and October 2021. The EUCO of October 2021 emphasised that the EU would not accept any attempts by third countries to use migrants for political purposes. In addition, the EUCO requested the Commission to propose the necessary changes to the EU legal framework to be able to respond adequately in the future. EU leaders also indicated that the EU would take a decision on new sanctions as a matter of urgency.

53 Monika Sie Dhian Ho and Myrthe Wijnkoop. 2022. "[The instrumentalization of migration: A geopolitical perspective and toolbox](#)", *Clingendael Institute*.

These sanctions were adopted by the Council. Sanctions were already in place following the fraudulent elections in 2020. In early December 2021, the Council decided on restrictive measures against a further 17 individuals and 11 entities involved in organising the border crossings from Belarus into the EU. The Council also adopted the Commission's proposal on the partial suspension of the EU-Belarus visa facilitation agreement. Moreover, twelve Member States submitted a letter to the Commission Vice-President Margaritis Schinas and Commissioner for Home Affairs Ylva Johansson, stressing the need to strengthen protection of the EU's external borders, to counter the instrumentalisation of migration by non-democratic regimes, and to provide funding for the building of a wall at the border with Belarus.⁵⁴

The Commission played a key role in formulating and coordinating the various responses. In July 2021, the Commission established a monitoring mechanism through the Migration Preparedness and Crisis Management Network (the 'Migration Blueprint Network'). Within this framework, the affected Member States, the EEAS, the relevant EU agencies (e.g. Frontex, the Asylum Agency and Europol) and the Commission services exchange data, information and insights, which are reported on regularly. The Commission also coordinated various forms of financial and operational assistance, ranging from funding to technical advice from EU services to border surveillance assistance through Frontex. In addition, the Commission coordinated support to Lithuania under the EU Civil Protection Mechanism (UCPM), activated by Lithuania in July 2021. The Commission activated the Small-Scale Tool (part of the Emergency Toolbox), allocating €500,000 for international organisations to provide life-saving emergency assistance to vulnerable people stranded at the border. Finally, the Commission took the lead in formulating legal measures (next section).

The EP played an active role in the adoption of the legal measures formulated by the Commission.⁵⁵ Beyond its role as co-legislator, the EP also made its voice heard through resolutions. For example, in its resolution of 10 June 2021, the EP condemned the widespread human rights violations in Belarus and the use

54 The letter was signed by interior ministers from Lithuania, Austria, Bulgaria, the Czech Republic, Denmark, Estonia, Greece, Cyprus, Latvia, Poland, Slovakia and Hungary:
<https://www.delfi.lt/en/politics/eu-interior-ministers-call-for-swifter-eu-level-decisions-on-border-protection-88381611>

55 "Pact on Migration and Asylum - Migration and Home Affairs", European Commission, Directorate-General for Migration and Home Affairs, 2024.

of illegal migration by Lukashenko's regime to destabilise the EU.⁵⁶ On several occasions, the EP called for firm responses by the EU towards Belarus and urged affected Member States to respect human rights. In March 2022, an EP delegation organised a fact-finding mission to Latvia and Lithuania to assess the human rights situation of asylum-seekers. The delegation concluded that 'greater effort is necessary to ensure full compliance with EU law, in particular as regards the Common European Asylum System and the Charter of Fundamental Rights, in actions taken at the external borders, and in terms of reception conditions and asylum procedures.'⁵⁷ Human rights concerns were a common theme in the EP's responses in this case.

4.2 Legal framework and proposals

As requested by the EUCO, the Commission proposed several measures (see Box 5). On 1 December 2021, the Commission adopted a proposal for a Council decision on provisional emergency measures for the benefit of Latvia, Lithuania and Poland based on Article 78(3) TFEU.⁵⁸ The proposal was aimed to support these countries with operational guidance to manage the arrival of asylum-seekers in full respect of fundamental rights.⁵⁹ The measures included, among others, i) an extension of the registration deadline, ii) a possibility to only cover basic material needs for asylum seekers, iii) operation support by EU agencies, such as Frontex, and iv) provisions on cooperation, between the Commission, Member States and EU agencies, as well as on the obligation of Member States to continue to report relevant data and statistics via the EU Migration Blueprint Network.⁶⁰ To justify the use of Article 78(3), the proposal specified that measures were of temporary and exceptional nature. Article 78(3) was previously invoked during the 2015 migration crisis, to provide for the relocation of asylum seekers from Italy and Greece to other Member States.

56 [“European Parliament resolution of 10 June 2021 on the systematic repression in Belarus and its consequences for European security following the abductions from an EU civilian plane intercepted by Belarusian authorities \(2021/2741\(RSP\)\)”, European Parliament, 2021.](#)

57 [“MEPs end visit to Latvia and Lithuania to assess situation at Belarus' borders | News | European Parliament”, European Parliament, 2022.](#)

58 [“EUR-Lex - 52021PC0752 - EN - EUR-Lex”.](#)

59 [“EUR-Lex - 52021PC0752 - EN - EUR-Lex”.](#)

60 [“EUR-Lex - 52021PC0752 - EN - EUR-Lex”.](#)

However, within two weeks after submitting this proposal, the Commission introduced a new and substitute proposal for a regulation addressing situations of instrumentalisation in the field of migration and asylum.⁶¹ This proposal contained broadly similar measures but yet established a permanent framework applicable to all Member States (not only the three countries affected at that time). Key provisions included, among others, i) the possibility to designate specific registration points for lodging asylum applications; ii) the possibility to extend the registration deadline to the maximum of four weeks; iii) the possibility to only cover basic needs; and iv) the option to directly execute return orders.⁶² Hence, the proposed regulation set out specific derogations from EU asylum law that Member States could request when faced with situations of instrumentalised migration.

Box 5 Overview of measures to respond to instrumentalization

Measure	Legal Base	Decision-making
Proposal for a Council Decision on provisional emergency measures for the benefit of Latvia, Lithuania and Poland, COM/2021/752 final.	Article 78(3) TFEU	Not relevant as proposal was withdrawn.
Proposal for a Regulation of the European Parliament and Council addressing situations of instrumentalisation in the field of migration and asylum, COM/2021/890 final.	Article 78(2) and Article 79(2) TFEU	Ordinary legislative procedure (not adopted).
Regulation (EU) 2024/1359 of the European Parliament and of the Council of 14 May 2024 addressing situations of crisis and force majeure in the field of migration and asylum, Regulation.	Article 78(2)	Ordinary legislative procedure.
Regulation (EU) 2024/1717 of the European Parliament and of the Council of 13 June 2024 amending Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders.	Article 77(2) and Article 79(2).	Ordinary legislative procedure.

The Commission’s proposal received considerable criticism from legal experts, civil society and certain Member States (each with different reasons), and entered a bumpy interplay with the Council and EP. In October 2022 (hence, almost a year later) the Czech Council Presidency negotiated a new

61 [“EUR-Lex - 52021PC0890 - EN - EUR-Lex”](#).

62 See for analysis: Monika Sie Dhian Ho and Myrthe Wijnkoop. 2022. [“The instrumentalization of migration: A geopolitical perspective and toolbox”](#), p. 33.

compromised text on the proposed instrumentalisation regulation. According to experts, the Czech Presidency proposal would have granted the Member States a strengthened role in applying for derogations from asylum law vis-à-vis the Commission.⁶³ Nevertheless, by December it became clear that the Czech Presidency proposal would fail to secure sufficient support in the Council, thereby stalling the decision-making process.⁶⁴

The proposal was, however, later merged into the regulation on addressing situations of crisis and force majeure in the field of migration and asylum (Regulation (EU) 2024/1359), which was part of the Migration and Asylum Pact.⁶⁵ It thereby entered tough political negotiations between the Council and the EP. In short, the regulation gives Member States the possibility to derogate from asylum law in the event of a crisis or force majeure. Such a crisis or force majeure would occur in cases where the irregular arrival of asylum seekers is of such large numbers that the asylum and reception system of a Member State can no longer function, with serious consequences for the EU's asylum policy.⁶⁶ On request of the Council, also situations of instrumentalisation were included in the definition of crisis and force majeure. Moreover, compared to the original *Instrumentalisation Regulation*, the *Crisis and Force Majeure Regulation* further expanded the definition of instrumentalisation to include not only third countries but also non-state actors as potential initiators of instrumentalisation. In addition, the Regulation gives the Council leeway to decide on derogations from EU asylum law rather than the Commission, who had envisioned a larger role for itself in its previous proposal.⁶⁷ The Council adopted the regulation on 14 May 2024.

Initially, the EP was not in favour of merging the regulations. It advocated for a stricter definition of what would qualify as a crisis, and above all, it felt that it was under enormous pressure from the Council in this regard.⁶⁸ The EP also pleaded for more safeguards to ensure that the Commission would enforce EU legislation.

63 Lucas Rasche. 2022. "[The instrumentalisation of migration: How should the EU respond?](#)", *Hertie School Jacques Delors Centre*.

64 Ibid.

65 "[Regulation - EU - 2024/1359 - EN - EUR-Lex](#)"; "[Proposal for a Regulation on situations of instrumentalisation in the field of migration and asylum](#) In "A new era for European Defence and Security", *Legislative Train Schedule, European Parliament*, 2025.

66 Tineke Strik and Marieke Vreeken. 2024. "[Het nieuwe Asielpact, Over onzekerheid, verlaagde standaarden en problemen die blijven](#)", *Radboud Repository*.

67 Ibid. p. 18.

68 Ibid.

In the end, the EP adopted the *Crisis and Force Majeure Regulation* on 10 April 2024, mainly because of the felt pressure to agree on the entire package before the European elections.⁶⁹

Next to this regulation on the instrumentalisation of migration, the Commission, on 14 December 2021, also submitted a proposal for a regulation on a revised Schengen Borders Code.⁷⁰ This regulation also provides measures to act in situations of instrumentalised migration, including, among others, i) increased external border surveillance; ii) limiting the number of border crossing points, iii) rules for the reintroduction and prolongation of internal border controls in case of a security threat; iv) the possibility to use alternative to the reintroduction of border controls, typically consisting of police checks, and v) a new transfer procedure that would allow a Member State to transfer third-country nationals detained in the border area to the Member State from which they arrived directly.⁷¹ The EP was again critical of such derogations, demanding for stronger guarantees for the protection of human rights of asylum seekers, clearer criteria and shorter timeframes for the application of derogations.⁷² The regulation was adopted by the EP on 24 April 2024, and by the Council on 24 May 2024.⁷³

4.3 Lessons learned regarding effectiveness and the institutional balance

All in all, the responses to the instrumentalisation of migration by Belarus (including among others sanctions, financial and operational assistance and legal measures) were effectively coordinated by the Commission. That being said, the Commission was unable to prevent and quickly resolve the humanitarian crisis unfolding at the Belarus-EU border that was intentionally instigated

69 Ibid.

70 [“EUR-Lex - 52021PC0891 - EN - EUR-Lex”](#); [“Regulation - EU - 2024/1717 - EN - EUR-Lex”](#).

71 [“Schengen area: Council adopts update of Schengen Borders Code - Consilium”](#), *European Council and the Council of the EU*, 2025.

72 Juan Fernando López Aguilar. 2023. [“REPORT on the proposal for a regulation of the European Parliament and of the Council addressing situations of crisis in the field of migration and asylum \[A9-0127/2023 | European Parliament”](#), *European Parliament, Committee on Civil Liberties, Justice and Home Affairs*.

73 [“Proposal for a Regulation on situations of instrumentalisation in the field of migration and asylum In “A new era for European Defence and Security”](#), *Legislative Train Schedule, European Parliament*, 2025.

by Belarus.⁷⁴ It proposed new legislation to deal with future instances of instrumentalisation of migration, but the adoption process was bumpy and took roughly 2,5 years.

In the meantime, the Commission effectively gave the affected Member States free rein to act unilaterally, even when suspending asylum and pushbacks violated EU law.⁷⁵ In the absence of harmonised legislation addressing the instrumentalisation of migration, the Commission afforded these Member States considerable discretion under the pretext that ‘necessity knows no law’. For example, the three affected countries declared the state of emergency and closed their borders, thereby denying people the right to enter the country and apply for asylum. In doing so, they referred to Article 72 TFEU that allows Member States to derogate from EU secondary law in exceptional cases in order to maintain law and order and to safeguard internal security.⁷⁶ Under Article 72 TFEU, the Member State must show the derogation is suitable for the security aim, and that relevant EU legislation offers no viable alternative solution. It must also demonstrate the measure’s strict and temporary nature.

Human rights experts have expressed concerns about this course of action, under which Latvia, Lithuania and Poland justified pushbacks of migrants and denied them access to food, water and shelter.⁷⁷ Up till now, the Commission has tolerated such unilateral actions, leaving enforcement of asylum law and exceptions under Article 72 TFEU almost entirely in the hands of the courts. This course of action undermines the Commission’s role as guardian of the treaties.⁷⁸

Regarding decision-making on the new legislation, the institutional pendulum also swung largely in favour of the Member States. On the one hand, the Commission’s proposal for a Council Decision on emergency measures under

74 [“Asylum Report 2022”](#), European Union Agency for Asylum, 2022.

75 Aleksandra Jolkina. 2022. [“Legalising Refoulement: Pushbacks and Forcible ‘Voluntary’ Returns from the Latvian-Belarus Border | Refugee Law Initiative”](#), Refugee Law Initiative, School of Advanced Study University of London.

76 Daniel Thym. 2025. [“Does the Commission Cross the Rubicon? Legalising ‘Pushbacks’ on the Basis of Article 72 TFEU – EU Immigration and Asylum Law and Policy”](#), EU Immigration and Asylum Law and Policy.

77 [“Asylum Report 2022”](#), European Union Agency for Asylum, 2022.; [“Poland: Brutal Pushbacks at Belarus Border | Human Rights Watch”](#), Human Rights Watch, 2024.

78 Aleksandra Jolkina, [“Legalising Refoulement: Pushbacks and Forcible ‘Voluntary’ Returns from the Latvian-Belarus Border | Refugee Law Initiative”](#).

Article 78(3) was dropped, and the subsequent introduction of legislation under the ordinary legislative procedure allowed the EP to be involved. On the other hand – and as argued above – the EP was put under enormous pressure by the merging of legislative proposals within the Asylum and Migration Pact, and particularly to conclude negotiations on the entire package before the end of its term.

In terms of content of the new legislation, Member States have also drawn the longest straw. The *Crisis and Force Majeure Regulation* grants Member States considerable discretion to temporarily apply derogations from EU law, at the expense of the Commission and EP. Member States must submit a reasoned request to the Commission explaining the alleged instrumentalisation and the measures sought.⁷⁹ While the Commission assesses the situation and proposes, if any, temporary derogations, it is ultimately up to the Council (by way of a Council Implementing Decision) to decide whether these derogations can be applied for three months or extended for further three-month periods.⁸⁰

It is beyond the scope of this report to assess the effectiveness of the regulation, not least because it is not yet in effect. Yet, given the reality where asylum remains suspended at the Belarus-Polish border and asylum law is being sidelined by national and geopolitical interests, it seems unlikely that this will change when the new legislation takes effect. Non-enforcement seems more a matter of political will than of ineffective legislation. Yet, it is precisely this tension between humanitarian values and national and geopolitical interests that Belarus (and Russia) is deliberately seeking to exploit to divide the EU.

79 [“Regulation - EU - 2024/1359 - EN - EUR-Lex”](#), art. 2(2)(a)(ii).

80 Art. 3(1)(4) and 4(3) of Regulation (EU) 2024/1359. Council implementing decisions are based on a proposal by the European Commission. This proposal is examined by committees consisting of member state representatives (the so-called comitology procedure). These committees can either provide a positive or negative opinion. In case of a negative opinion, the Commission cannot adopt the act.

5 The European energy crisis (2022-): Assessing institutional dynamics when speed is prioritized

The energy crisis in the EU (and beyond) already started in the aftermath of the COVID-19 pandemic.⁸¹ The Russian invasion of Ukraine, however, made it even more necessary for the EU to end its dependency on Russian energy. As a result, Russian fossil exports dropped dramatically, leading to high energy prices and a necessity to diversify imports. Mandated by the EUCO, the Commission presented several measures. The measures – part of the so-called RePowerEU plan – were introduced on the basis of Article 122(1) TFEU, allowing the Council to adopt non-legislative acts in a spirit of solidarity. These acts are adopted by QMV without involvement of the EP.⁸²

5.1 The institutional interplay

When the energy crisis hit, the EUCO took the initial lead by providing the other EU institutions with political guidance.⁸³ In the so-called Versailles declaration of 10–11 March 2022, the EUCO asked the Commission to ‘propose a RePowerEU plan’ [...] ‘to phase out our dependency on Russian gas, oil and coal imports as soon as possible’.⁸⁴ In addition, in the same declaration, the heads of state and government stated that they would ‘urgently address and consider concrete

81 Andreas C. Goldthau and Richard Youngs. 2023. “[The EU Energy Crisis and a New Geopolitics of Climate Transition](#)”, *Journal of Common Market Studies* vol. 61, no S1, pp.115-124.

82 Rafał Mańko. 2025. “[Legal bases in Article 122 TFEU Tackling emergencies through executive acts](#)”, *European Parliamentary Research Service*.

83 Pierre Bocquillon and Tomas Maltby. 2020. “[EU energy policy integration as embedded intergovernmentalism: The case of energy Union governance](#)”, *Journal of European Integration*, vol. 21 no. 1, pp. 39-57.; Anna Herranz-Surralsés, et al. 2021. “[Renegotiating Authority in EU Energy and Climate Policy](#)”, *Routledge*.

84 “[Informal Meeting of the Heads of State or Government: Versailles Declaration](#)”, *European Council*, 2022.

options, building on the Commission Communication of 8 March 2022, for dealing with the impact of increased energy prices.⁸⁵ In both its meetings on 31 May and 23 June 2022, the EUCO requested the Commission to present proposals as a *matter of urgency*, with the aim to securing energy supply at affordable prices. This reference to a matter of urgency provided the political mandate of the use of Article 122 TFEU.

Initially, the Commission was reluctant to interfere in the energy market in the fear it would lead to further market distortions and hinder its climate goals.⁸⁶ Yet, as requested by the EUCO, the Commission proposed its RePowerEU plan, consisting of six coordinated EU emergency measures (see next paragraph and Box 6). Five of these measures were adopted under Article 122(1), by the Council based on QMV and without involvement of the EP. The other proposal – to ensure the filling of underground storage sites, Regulation (EU) 2022/1032 – was adopted with the involvement of both the EP and Council.

5.2 Legal framework and proposals

The use of Article 122 has a long history but recently became more prominent during the COVID-19 pandemic. In fact. In the 1970s and 1980s its predecessor – Article 103 – was invoked much more frequently. Temporary measures adopted under this article related to intervention prizes in the Common Agricultural Policy (CAP) in response to monetary fluctuations, response measures during the energy crisis in the 1970s, and temporary measures in the field of fisheries.⁸⁷ With the further deepening of the internal market, it became largely unnecessary to invoke Article 122, so that it was hardly relied on anymore. This lasted until 2010, when Article 122 was invoked in the context of the eurocrisis.

During the COVID-19 pandemic, the Council used Article 122 to establish the EU Recovery Instrument (EURI), which formally established Next Generation EU (NGEU) as instrument to provide Member States with financial support during

85 Idem.

86 Lode Van Den Hende and Eric White. 2023. "[The EU's emergency energy measures | Herbert Smith Freehills Kramer | Global law firm](#)", Herbert Smith Freehills Kramer.

87 Merijn Chamon. 2023. "[The use of Article 122 TFEU - Institutional implications and impact on democratic accountability](#)", European Parliament, Policy Department for Citizens' Rights and Constitutional Affairs * Directorate-General for Internal Policies.

the aftermath of the COVID-19 pandemic. Thereafter, as analysed in this chapter, the Council used Article 122 to adopt measures to deal with the energy crisis following the full-scale invasion of Ukraine by Russia.⁸⁸

The impact of these measures has led some to argue that this use of Article 122 constitutes a ‘paradigm shift in EU governance’ and is setting a precedent for the future.⁸⁹ And indeed, in 2025, Article 122 was used twice: namely in the case of the Security Action for Europe (SAFE) Regulation – which provides Member States financial support to purchase defence material – and the Regulation to immobilise the assets of the Russian Central Bank.⁹⁰

Box 6 provides an overview of the emergency energy measures adopted within the RePowerEU-plan. First, the Commission proposed a measure that ensured the filling of underground gas storage sites for the coming winter seasons (Regulation (EU) 2022/1032). This *Gas Storage Regulation* was adopted under Article 194(2) and decided upon by using the ordinary legislative procedure, with secured involvement of both the Council and the EP. The regulation was due to expire in December 2025 but was extended with two years and will expire in December 2027.

The second measure includes Council Regulation (EU) 2022/1369 on reducing gas demand voluntarily by 15 percent between August 2022 and March 2023. The *Gas Demand Reduction Regulation* provides for an instrument (the so-called ‘Union alert’) for a mandatory gas demand reduction for all Member States. Under this instrument, the Council could, on a proposal from the Commission, declare a Union alert by means of an implementing decision. A Union alert could only be declared when the voluntary demand-reduction measures were insufficient. The measure was in force until 31 March 2024.

88 Merijn Chamon, [“The use of Article 122 TFEU - Institutional implications and impact on democratic accountability”](#), p. 18.

89 René Repasi. 2020. [“A Dwarf in Size, But a Giant in Shifting a Paradigm – The European Instrument for Temporary Support to Mitigate Unemployment Risks \(SURE\)”](#), *EU Law Live.*; Valentin Kreiling. 2025. [“Article 122 TFEU: The legal workaround to freeze Russian assets and possible repercussions”](#), *Swedish Institute for European Policy Studies.*

90 [“Regulation - 2025/2643 - EN - EUR-Lex”](#); [“Regulation - EU - 2025/2600 - EN - EUR-Lex.”](#)

Box 6 Emergency measures within the RePowerEU-plan

Measure	Legal basis	Decision-making
Gas storage / Regulation (EU) of the EP and Council 2022/1032 ⁹¹	Article 194(2)	Ordinary legislative procedure: Council + EP
Gas demand reduction / Council Regulation (EU) 2022/1369 ⁹²	Article 122(1)	Non-legislative procedure: Council (QMV)
Emergency intervention to address high energy prices / Council Regulation (EU) 2022/1854 ⁹³	Article 122(1)	Non-legislative procedure: Council (QMV)
Demand aggregation mechanism / Council Regulation (EU) 2022/2576 ⁹⁴	Article 122(1)	Non-legislative procedure: Council (QMV)
Accelerated deployment of renewable energy projects / Council Regulation (EU) 2022/2577 ⁹⁵	Article 122(1)	Non-legislative procedure: Council (QMV)
Market correction mechanism / Council Regulation (EU) 2022/2578 ⁹⁶	Article 122(1)	Non-legislative procedure: Council (QMV)

A third measure was the *Emergency Intervention* to address high energy prices (Council Regulation (EU) 2022/1854). Also this measure entailed a temporary intervention that prescribed, inter alia, (i) demand-reduction measures for electricity, (ii) a Union-wide cap on market revenues for electricity producers, (iii) a temporary solidarity contribution to be paid by fossil fuel companies.⁹⁷ Accordingly, revenues exceeding the cap were redirected to support final electricity customers, such as households and small and medium-sized enterprises exposed to high electricity prices.⁹⁸ The measure was in force until 31 December 2023.

Three additional regulations were also adopted on the basis of Article 122. First, the *Demand Aggregation Mechanism* (Council Regulation (EU) 2022/2576), which was aimed to enhance solidarity among EU Member States through better coordination of gas purchases and reliable price benchmarks and exchanges

91 [“Regulation - 2022/1032 - EN - EUR-Lex.”](#)

92 [“Regulation - 2022/1369 - EN - EUR-Lex.”](#)

93 [“Regulation - 2022/1854 - EN - EUR-Lex.”](#)

94 [“Regulation - 2022/2576 - EN - EUR-Lex.”](#)

95 [“Regulation - 2022/2577 - EN - EUR-Lex.”](#)

96 [“Regulation - 2022/2578 - EN - EUR-Lex.”](#)

97 Merijn Chamon. 2023. [“The use of Article 122 TFEU - Institutional implications and impact on democratic accountability”](#), p. 29.

98 Leigh Hancker. 2023. [“Solidarity on Solidarity Levies and a Choice of Energy Mix”](#), *Verfassungsblog on matters constitutional*.

of gas across borders. Secondly, the Regulation on Accelerated Deployment of Renewable Energy (Council Regulation (EU) 2022/2577) laid down a framework to accelerate the deployment of renewable energy, with the aim to tackle the energy crisis, reduce the EU's dependency on Russian fossil fuels and further advance the EU's climate objectives by accelerating the permit granting process and the deployment of renewable energy projects. Finally, the *Market Correction Mechanism* (Council Regulation (EU) 2022/2578) protects citizens and the economy against excessively high prices and establishes a system of temporary measures to prevent spikes of excessively high gas prices in the EU that do not reflect prices on the world market. Although these measures were introduced as temporary measures, they were extended with generally a year (and expired on 31 December 2024).⁹⁹

In all cases, the use of Article 122 was legitimized by the Commission (in the proposals) and Council (in the eventual regulations) on the basis that these measures were urgent and of temporary nature. Accordingly, the non-legislative character of Article 122 means that it is intended to legitimize coordinated measures and cannot be used to impose legal obligations on individuals or companies.¹⁰⁰ It allows for a derogatory legislative procedure, meaning that, in contrary to the ordinary legislative procedure, the EP is merely informed.¹⁰¹ As a consequence, regulations under Article 122 TFEU can generally be adopted much faster than regulations under the ordinary legislative procedure.¹⁰²

5.3 Lessons learned regarding effectiveness and the institutional balance

In 2022, EU leaders were taken by surprise by the sudden threat of energy shortages and, arguably, could have done more in terms of preparation and anticipation. Yet, once they acted, they were able to adopt the emergency energy measures swiftly – most within only one month. However, when comparing the

99 [“Prolongation of emergency regulations on security of supply and energy prices: Council adopts measures”](#), *Council of the EU*, 2023.

100 See for this argument: Lode Van Den Hende and Eric White. 2023. [“The EU’s emergency energy measures | Herbert Smith Freehills Kramer | Global law firm”](#).

101 [“EUR-Lex - 12012E122 - EN - EUR-Lex”](#), *Treaty on the Functioning of the European Union*, art. 122.

102 François-Charles Laprèvote, et al. 2022. [“Article 122 TFEU as a Legal Basis for Energy Emergency Measures”](#), Cleary Gottlieb.

five measures adopted by the Council under Article 122(1) with the *Gas Storage Regulation*, the difference is not that remarkable: this regulation only took three months to be adopted. To compare: on average a legislative process in the EU takes roughly two years. It is beyond the scope of this report to assess whether these measures were indeed effective in content. Yet, it is safe to argue Commission, Council and EP acted swiftly in their response to the energy crisis.

At the same time, the downside was that the EP was sidelined in most measures. Based on Article 122(1), a deviation from the normal legislative process is permissible if ‘appropriate to the economic situation’. This does not necessarily mean an emergency or a crisis. This is different in case of invoking Article 122(2), which does in fact entail a crisis legal basis. The use of Article 122(1) in response to the energy crisis was therefore not without criticism. Obviously, this criticism came in the first place from the EP itself. On 5 October 2022, the EP adopted a resolution on the EU’s response to the energy crisis. In the resolution, the EP welcomed the proposals but regretted the decision that Article 122 TFEU was used instead of a legislative procedure based on co-decision.¹⁰³

Moreover, both the *Gas Demand Reduction Regulation* and the *Emergency Intervention Regulation* were challenged before the EU courts. In both cases, the Commission and Council found the use of Article 122(1) appropriate to the economic situation. For example, paragraph 5 of the *Gas Demand Reduction Regulation* states that: ‘the recent escalation of disruption of gas supply from Russia points to a significant risk that a complete halt of Russian gas supplies may materialise in the near future, in an abrupt and unilateral way. [...] Immediate proactive action is necessary to anticipate further disruptive action and strengthen the resilience of the Union to future shocks. Coordinated action at Union level can avoid serious harm to the economy and to citizens resulting from a possible gas supply interruption.’¹⁰⁴

This course of action was challenged by Poland, thereby gaining support from Hungary.¹⁰⁵ According to Poland, the regulation significantly affected

103 European Parliament resolution of 5 October 2022 on the EU’s response to the increase in energy prices in Europe, [Texts adopted - The EU’s response to the increase in energy prices in Europe - Wednesday, 5 October 2022](#).

104 “[Regulation - 2022/1369 - EN - EUR-Lex](#)”.

105 Merijn Chamon. 2023. “[The use of Article 122 TFEU - Institutional implications and impact on democratic accountability](#)”.

Member States' freedom to shape the energy mix, and should therefore have been adopted on the basis of Article 192(2)(c) TFEU, which prescribes a special legislative procedure with decision-making based on unanimity. In that case, the EP would at least have been consulted. Yet, the matter did not proceed to court because the government of Donald Tusk – in power since December 2023 and aimed at improving Poland's relationship with Brussels – dropped the case.¹⁰⁶

In the case of the Emergency Intervention Regulation, too, the use of Article 122 was justified by the alleged risk of halted gas supplies. The Commission and Council found it legitimized to establish a 'rapid and coordinated response' since 'Uncoordinated national measures could affect the functioning of the internal energy market, endangering security of supply and leading to further price increases in the Member States most affected by the crisis.'¹⁰⁷ Moreover, the use of an emergency clause was further legitimized by the notion that the measures would be strictly temporary.¹⁰⁸

This choice was however challenged, both by some Member States and by several energy companies. Hungary questioned the legal basis of this regulation, stating that 'Article 122 of the TFEU cannot be the sole legal basis for the solidarity contribution, which includes provisions of a fiscal nature, that should be discussed and adopted accordingly with unanimity'.¹⁰⁹ This view was shared by Poland, which furthermore stressed that the Commission 'failed to provide sufficient justification for its conclusion that its proposed new measures, and in particular the 'solidarity levy', did not constitute measures of a fiscal nature'.¹¹⁰ Criticism also came from energy companies, who even challenged the regulation before the CJEU (i.e. the General Court).¹¹¹ Also the companies argued that the regulation contained fiscal measures and that therefore the decision should have been made on the basis of unanimity (i.e. based on Article 113 TFEU). To date, the case is pending, but according to experts likely to be inadmissible, because these

106 Order in Case C-301/21. <https://curia.europa.eu/juris/document/document.jsf?docid=301217>.

107 "Regulation - 2022/1854 - EN - EUR-Lex".

108 François-Charles Laprèvote, et al. 2022. "Article 122 TFEU as a Legal Basis for Energy Emergency Measures".

109 "Proposal for a Council Regulation on an emergency intervention to address high energy prices", Council of the EU, 2022.

110 "Proposal for a Council Regulation on an emergency intervention to address high energy prices", Council of the EU, 2022.

111 "EUR-Lex - 62023CJ0633 - EN - EUR-Lex" Case C-633/23.

companies are not individually and directly concerned and are not required to take implementing measures.¹¹²

In any case, given the far-reaching impact of the energy crisis and responses, greater parliamentary involvement would have increased the democratic mandate of the measures and would have done more justice to the institutional balance within the EU. This view is supported by Hancher (2023), who stresses that the interventions of the Commission (as well as the chosen legal basis) exemplify situations where ‘urgency of action invariably displaces democratic scrutiny and control’.¹¹³ Moreover, she stresses that it is ‘hoped that the present crisis driven approach does not become “the new normal”’.¹¹⁴ This risk of instigating a ‘new normal’ had also been expressed by Lapr votte et al. (2022), who stress that these regulations could have set a precedent to grant the EU ‘a form of exceptional and temporary taxation competence’.¹¹⁵

In the same vein, Chamon (2023) stresses that the institutional disbalance could have been prevented without losing speed in the process.¹¹⁶ Given that also the EP was committed to swift decision-making to counter high energy prices, the author argues that the EU institutions could have come to a political agreement and could have at least consulted the EP. This would have enhanced transparency ‘without sacrificing speediness in those cases where urgent action is required’.¹¹⁷ Nevertheless, that co-decision with the EP would not necessarily have delayed the decision-making substantially is showcased by the *Gas Storage Regulation*, which was adopted by the ordinary legislative procedure within three months. In any case, involvement of the EP – whether in the form of co-decision or consultation – would have safeguarded the democratic mandate of the EU’s energy crisis responses.

112 Merijn Chamon. 2023. [“The use of Article 122 TFEU - Institutional implications and impact on democratic accountability”](#), p. 30.

113 Leigh Hancher. 2023 [“Solidarity on Solidarity Levies and a Choice of Energy Mix”](#).

114 Ibid.

115 Fran ois-Charles Lapr votte, et al. 2022. [“Article 122 TFEU as a Legal Basis for Energy Emergency Measures”](#).

116 Merijn Chamon. 2023. [“The use of Article 122 TFEU - Institutional implications and impact on democratic accountability”](#), p.6.

117 Ibid.

6 Conclusions and Outlook

Under pressure from successive threats, the EU's crisis toolkit has been significantly expanded. Managing crises in the EU is not an easy task, as it requires the EU and its Member States to work together and to share power and responsibilities. Furthermore, many of the current crises are hybrid and intentional in nature, covering multiple and politically sensitive policy domains. Although the EU has (shared) competences in many areas, its role in the area of security and defence is limited. Yet, in current geopolitical times, the boundaries between security and other (for example economic and societal) domains are increasingly blurred, meaning that responsibilities overlap. The main question addressed in this report is how the EU deals with these challenges. Does the EU act effectively in times of crisis? And does it do so while respecting the institutional balance?

To answer these questions, this report examined three crises in diverging policy areas. Chapter 3 analysed different scenarios of disruption to critical infrastructure in the Baltic Sea – a security area where the EU has limited powers and Member States decide and act in alignment with NATO. Chapters 4 and 5 addressed two crises in areas on which the EU institutions share competences with the Member States, namely the Belarus-EU border crisis (2021-) and the energy crisis following the Russian invasion of Ukraine (2022-). Based on the analyses, this final chapter draws several conclusions about the extent to which the EU is capable of cooperating effectively in times of crisis, and of doing so in a manner that respects the institutional balance in the Union. The conclusions are summarized in Box 7.

Box 7 Cross-case conclusions

	Effectiveness	Institutional cooperation
Baltic Sea crisis	<ul style="list-style-type: none"> Operational and legal ambiguity limits effectiveness of response Decision-making can be delayed by unanimity depending on whether disruption is intentionally caused 	<ul style="list-style-type: none"> An effective crisis response rests on a “one-team” approach by Council, Commission and EEAS (in cooperation with NATO), but this is complicated by ‘governance fog’ Reluctance on the part of Member States to give the EU institutions a greater role, although this may be beneficial in terms of coordination and implementation
Belarus-EU border crisis	<ul style="list-style-type: none"> Commission acted swiftly with short-term measures, but these could not prevent the humanitarian crisis that was intentionally created by Belarus In the long absence of permanent legislation, Member States were given considerable leeway to act on their own, preventing effective joint responses 	<ul style="list-style-type: none"> Lengthy negotiations on legislation revealed discontent on the part of Member States and the EP, albeit with different reasons All in all, Commission prioritized the interests of Member States at the expense of the law and to the discontent of the EP
Energy crisis	<ul style="list-style-type: none"> Swift adoption of temporary emergency measures due to invoking emergency clause Article 122 TFEU 	<ul style="list-style-type: none"> The speed with which far-reaching emergency measures were adopted, came at the expense of democratic oversight Because measures were temporary, no permanent institutional overstretch

6.1 The effectiveness of the EU’s crisis responses

In time of crisis, a jumble of EU institutions and agencies are involved in the coordination and management of responses, some more intergovernmental while others more supranational – depending on the nature of the crisis. In the event of (suspected) sabotage of critical infrastructure, the EU’s multilevel governance framework leads to operational and legal ambiguity that affects the effectiveness of its response. Decision-making in the event of deliberate sabotage rests primarily with the Member States. The Council Presidency activates the IPCR, steers political coordination, and determines the Union’s collective response (including possible activation of the solidarity clause under Article 222 TFEU). The Commission’s role in this area is more limited, but it does take the lead when it comes to resilience and recovery, notably through the Civil Protection Mechanism and related instruments. The EEAS and the High

Representative become central when external security and diplomacy with third countries are involved, including coordination with NATO.

This institutional interplay has limitations when it comes to effective coordination. Who coordinates depends on whether it is actual sabotage or a technical fault. In the first, military action might be required (requiring unanimity), while in the latter, the Council could decide to act jointly in a spirit of solidarity (requiring QMV). An effective crisis response rests on a “one-team” approach where the Commission’s operational capacity and the Council’s political authority act in concert – thereby bridging solidarity-defense and civil-military divides – and enabling a unified European reaction to hybrid threats.

During recent crises, the Commission has proven to be an effective crisis manager. It has often moved ahead within its mandate given by the European Council. During the Belarus-EU migration crisis, the Commission acted quickly by proposing tightened sanctions, setting up a coordination network, and providing operation and financial support to affected countries. However, these measures were unable to prevent a humanitarian crisis at the EU borders that was intentionally created by Belarus. Moreover, in the absence of legislation that would set criteria for derogations of EU law in times of crisis, the affected Member States were given considerable leeway by the Commission to act on their own thereby breaching EU law. In the meantime, new legislation was being drafted to prevent this from happening in the future, but it took several years for this legislation to come into force. In the case of the energy crisis, regulations were adopted much faster. However, these were mainly temporary regulations based on an emergency clause, allowing the Council to decide without involvement of the EP.

6.2 The institutional balance in times of crisis

The analysis of the three cases leads to the conclusion that crisis management is characterised by a high degree of institutional fragmentation. This is even more so in case of hybrid threats, as these impact on different policy areas and thereby require responses falling within different policy areas. Although this implies that responses are not always timely and effective, this fragmentation is the essence of the EU’s multilevel governance structure, where competences and powers lie with the institutions best equipped to exercise them. Yet, in recent years, inter-institutional relations in the EU have shifted under pressure from various crises,

particularly in favour of the European Council (EUCO) and Commission.¹¹⁸ As an institution with regulatory authority, the Commission has come to play an increasingly steering role in managing crises, including in areas that lie at the interface between EU and national competences. Yet, the Commission can only do so because the EUCO has, in various instances, given it the leeway to do so, notably by determining whether there is an emergency or crisis.

In the case of sabotage in the Baltic Sea the analysis points to a general reluctance on the part of Member States to give the EU institutions a greater role, although this may be beneficial in terms of coordination and implementation. In both the Belarus-EU migration crisis and the energy crisis, the Commission made use of its regulatory authority, thereby stretching its competences to the limits. In the case of the first, the Commission prioritized the interests and (electoral) considerations of the Member States at the expense of EU law – and to the discontent of the EP. In the case of the energy crisis, far-reaching measures were proposed without involvement of the EP. Yet, because the measures were temporary, this did not lead to a permanent institutional overstretch. However, the course of action to invoke the Treaties' emergency clauses is exemplary of a broader trend of sacrificing democratic oversight for the sake of swift decision-making.

6.3 Future outlook

Decisive and effective crisis management is crucial, as opponents deliberately seek out weaknesses in crisis response and exploit these. This report has shown that for a decisive and effective crisis response that safeguards the EU's institutional balance, it is crucial to more clearly define competences and responsibilities. At the same time, it is important to build some flexibility into those competences depending on the nature and stage of the crisis. It is crucial to ensure that EU institutions (the EUCO, Council, EEAS, Commission, and EP) and agencies complement each other and that national interests do not prevail at the expense of effective and democratically sound responses.

118 Calle Håkansson. 2024. "[Von der Leyen's Geopolitical Commission: Vindicated by Events?](#)", Swedish Institute for European Policy Studies.; David Moloney and Mark Rhinard. 2025. "[Crisis-Induced Institutionalization: How the Commission's Response to the Eurozone Crisis Shaped its Influence During the COVID-19 Pandemic](#)", *Risk, Hazards, & Crisis in Public Policy* vol. 16, no. 3.

Looking ahead, improving the EU's crisis management requires **clearer role divisions, stronger coordination mechanisms, and better information flows between institutions**. This requires, however, more mutual trust and political will among Member States to delegate powers for the sake of solidarity and European security. In particular, it is important to:

- **Clarify responsibilities** in hybrid and cross-border crises, specifying when the Council and Member States retain primacy and when the Commission should lead operational coordination.
- **Strengthen inter-institutional interoperability** by establishing a standing coordination arrangement linking the Council, Commission, and EEAS to reduce fragmentation and enable shared situational awareness.
- **Improve information-sharing structures** by ensuring timely exchange across institutions, agencies, and with NATO to overcome the intelligence and coordination gaps exposed by recent crises.
- **Strengthen the Commission's efforts in law enforcement** in areas on which the EU shares competences with Member States in order to safeguard its role as guardian of the treaties and the credibility of the Union as such.
- **Balance emergency action with democratic scrutiny** by ensuring that the use of exceptional powers remains transparent, temporary and proportionate without undermining the speed of response.

Together, these steps would enable the EU to respond more coherently and decisively to complex, hybrid crises, while respecting the institutional balance embedded in the Treaties.