

THE STRATEGIC STATE: THE EMERGENCE OF A NEW MODEL OF THE STATE AT THE EUROPEAN LEVEL*

Silvia Díez Sastre

Professor of Administrative Law
Universidad Autónoma de Madrid

ABSTRACT: This paper argues that a series of contemporary political, economic, and social developments are profoundly transforming the European Union and its Member States. It identifies three trends in particular—geopoliticization, securitization, and supranationalization—that account for

* This article forms part of the coordinated R&D&I Project on Societal Challenges funded under the 2023 call: «*La responsabilidad estratégica del Estado verde (STrATE 2.0)*» / «The strategic responsibility of the green state (STrATE 2.0)» (reference PID2023-149184OB-C41), which continues the work begun under the R&D&I Project on Societal Challenges funded under the 2020 call, «*El sector público al servicio de la responsabilidad estratégica del Estado*» / «The public sector in the service of the state's strategic responsibility» (reference PID2020-115834RB-C31).

The preliminary findings of this research were presented in the doctoral course «*Cuestiones metodológicas en la construcción del Estado estratégico*» / «Methodological issues in the construction of the strategic state,» taught at Universidad de los Andes in Santiago, Chile, in May 2026, during a research stay made possible by the invitation of the university's Administrative Law Department and, in particular, Professor Rosa Fernanda Gómez. They were subsequently presented at seminars held at Universidad Adolfo Ibáñez in Viña del Mar on May 15, 2026, and Universidad de Chile in Santiago on May 18, 2026, hosted by Professors Guillermo Jiménez Salas and Raúl Letelier Wartenberg, respectively.

A substantial part of the written version was completed during a research stay at Ludwig-Maximilians-Universität München, at Professor Martin Burgi's Chair, in July and August 2026. The final manuscript was discussed with the members of the research team at a seminar held at Universidad Autónoma de Madrid on September 11, 2026.

I am sincerely grateful for the support, suggestions, and criticism offered by all those who participated in these activities. I would particularly like to acknowledge my many years of dialogue with Professors Ester Marco Peñas and José María Rodríguez de Santiago concerning the subject of this research, as well as the valuable observations on security and defense provided by Jesús Pérez Gutiérrez. Any errors or shortcomings are mine alone.

To facilitate internal cross-references, the paragraphs have been numbered. References to one or more paragraphs use the symbols [§] or [§§], followed by the relevant paragraph number or numbers.

the emergence of a body of European law oriented toward new objectives: strategic autonomy, resilience, and defense. Yet the impact of these changes cannot be fully and adequately understood from a sector-specific perspective, because they go to the very foundations of European integration and the theory of the state. Accordingly, this article proposes, as a heuristic device, a new model of the state—the strategic state—that moves beyond the established European paradigm of the regulatory and guarantor state. The strategic state must be capable of acting strategically, through anticipation and the mobilization and deployment of all the resources at its disposal—public and private, civilian and military—to confront existential threats, preserve the values of the social and democratic state governed by the rule of law, and ensure its capacity to act autonomously, free from external pressures.

KEYWORDS: strategic state; geopoliticization; securitization; resilience; strategic autonomy; national security.

CONTENTS: 1. INTRODUCTION.—2. UNDERLYING CONDITIONS: 2.1. Geopoliticization; 2.2. Securitization; 2.3. Supranationalization.—3. PURPOSES: 3.1. Strategic Autonomy; 3.2. Resilience; 3.3. Defense.—4. FORMS OF ACTION.—5. GOVERNANCE.—6. CONCEPT: 6.1. Definition; 6.2. Terminology; 6.3. Scope.—7. BIBLIOGRAPHY.

1. INTRODUCTION

1. For the first time since the fall of the Berlin Wall, the Union is confronting existential threats to its security, independence, and unity of action.¹ The current context of interdependence, volatility, and complexity jeopardizes its ability to act in accordance with its interests and values, free from external pressure, coercive measures, or manipulation.² The retreat of multilateralism in favor of *Realpolitik*, hybrid campaigns, terrorism, extremism, the climate emergency, the technological revolution, and polarization, among other phenomena, have crystallized in a variety of *wicked problems*—against the backdrop of a «(global) polycrisis»—including supply chain disruptions, geopolitical risks, and dependencies on third countries.³ Situations previously regarded as exceptional are becoming less so, while the likelihood of a highly improbable, high-impact event—a «black swan»—has increased.⁴

¹ On the Union, see NIINISTÖ, 2024: 4; AZOULAI, 2026: 6; DOUGAN and HILLION, 2026: 61. On Germany, see GÄRDITZ (2024: 407). The concept of an «existential threat» is firmly established in political rhetoric as a reference to humanity's survival and capacity for self-destruction: SEARS, 2021: 2. For a systematic account of these threats, which are shaped by the international order—LABORIE IGLESIAS, 2026: 3—see STEINMÜLLER and GERHOLD, 2021: 42 et seq.

² On the broader context, see DOZ and KOSONEN, 2014: 4. On its impact on the Union, see REKOWSKI, 2025: 253; DOUGAN and HILLION, 2026: 62.

³ SARI, 2020a: 847; BEHNKE and ECKHARD, 2022: 3, 5; MIRÓ, 2023: 316; REKOWSKI, 2025: 252; MOSER, 2026: 215; AZOULAI, 2026: 6. On the concept of «wicked problems», understood as problems that are, by their nature, extremely difficult or impossible to solve and that arise in complex, contradictory, and incoherent settings, see AUSTIN and HÁJI, 2023: 6. For a proposed definition of the now widespread concept of «polycrisis», see LAWRENCE *et al.*, 2024: 2.

⁴ On the concept of the «black swan», see TALEB, 2022: XXII. For recent examples, including the pandemic, see BEHNKE and ECKHARD, 2022: 6; CIERCO SEIRA and SALAS RÍOS, 2023: 18.

The international security environment is extraordinarily complex.⁵ The distinction between trade and security is becoming blurred, and Europe is paying the price for having outsourced its defense policy for decades.⁶ It is no exaggeration to say that we are witnessing an epochal shift (*Zeitenwende*).⁷

2. In the past, the Union has demonstrated its capacity to respond to existential economic challenges by undertaking a range of institutional reforms. Examples include the measures adopted during the Great Recession of 2008 and, more recently, the launch of NextGenerationEU (NGEU), the post-pandemic recovery instrument—even though the approaches taken by the Union in those two cases were diametrically opposed.⁸ The process of European integration—born out of a catastrophe of indescribable magnitude, the Holocaust—has been punctuated by crises that have served as catalysts for further integration.⁹ The new global landscape now calls for a far-reaching transformation that is changing the very nature of the Union. There appears to be a growing recognition that the Union cannot be merely an area of freedom and a common market: it must become a safe place and a community capable of defending its values—respect for human dignity, freedom, democracy, equality, the rule of law, and respect for human rights (Article 2 TEU).¹⁰ This requires a change in narrative.¹¹

3. The Union can no longer rely solely on its regulatory power and geoeconomic weight to exert influence internationally.¹² It must secure its capacity to act in the global arena, particularly in strategic areas. To that end, the Member States must strengthen their capacity for joint action, especially in areas traditionally reserved to state authority, such as industrial policy, disaster management, and defense.¹³ At the same time, the Union must promote its strategic autonomy in order to reduce external dependencies—calling into question some of the neoliberal tenets that have become entrenched over several decades as part of the very rationale for European integration.¹⁴ The Union must also build the resilience necessary to respond to threats of every kind, including those that may be hybrid in nature or arise in a gray zone

⁵ KRUCK and WEISS, 2023: 1210.

⁶ STEINBACH, 2025: 1641, identifies Trump's first election as a warning signal in the field of defense. MOSER, 2026: 213–214, also cites the negotiation of the trade agreement between the Union and the United States—the Turnberry Agreement—which entered into force on July 1, 2026. For a highly critical assessment of the purely transactional nature of that agreement, see SARMIENTO, 2026: 270.

⁷ VANDENBOSCH *et al.*, 2024; DAßLER and WEISS, 2026: 1273.

⁸ MARCO PEÑAS, 2021: 359; ZURSTRASSEN, 2025: 1.

⁹ AZOULAI, 2020: 1675; MÜLLER, 2021: 128; STEINBACH, 2025: 1669.

¹⁰ See generally AZOULAI, 2020: 1675, and 2026: 10–11.

¹¹ ZURSTRASSEN, 2025: 2.

¹² MOSER, 2026: 214, expressly describes this as a paradigm shift.

¹³ BIEL *et al.*, 2013: 7; MIRÓ, 2023: 325, 329; FAULKNER *et al.*, 2024: 1; SCHMIDT, 2025: 223; REKOWSKI, 2025: 253; STEINBACH, 2025: 1635; MOSER, 2026: 209, 211.

¹⁴ MIRÓ, 2023: 316, 319, 329. On the internal tensions between competition and industrial policy, see ZURSTRASSEN, 2025: 4.

of conflict.¹⁵ Finally, as an *ultima ratio*, the Union must consolidate its collective defense capabilities.

4. Over the past decade, these objectives have found expression in the design and reform of various acts of secondary legislation. The relevant initiatives span a wide range of sectors and policy areas within the Union and its Member States—including industry, trade, energy, agriculture, defense, migration and asylum, security, and health. This makes it difficult to assess their cross-cutting impact and identify common patterns. Nevertheless, a preliminary examination reveals a body of law with distinctive characteristics: it is structured around a new vocabulary—strategic autonomy, resilience, digital sovereignty, threats, disruptions, vulnerability, critical raw materials, and critical infrastructure, to give only a few examples; it combines different forms of action that share a strategic orientation—including planning, spending power, and coercive measures; and it strengthens the Union's institutional structures, particularly the Commission's decision-making capacity and civil-military cooperation.

5. The starting hypothesis of this article is that the transformations currently taking place at the European level—within both the Union and the Member States—cannot be adequately understood from a sector-specific perspective, whether in their political or their legal dimension. It further argues that the scale and nature of the reforms under way go to the very foundations of European integration and the theory of the state. They affect the governance of the Union to such an extent that commentators have spoken of a new constitutional compact at the European level;¹⁶ necessarily, they also have implications for the power of the Member States. There is no doubt that the doctrinal analysis of the new rules and their application must remain firmly grounded in positive law and in the organizing principles of each area of public action. That analysis must, however, be situated within a broader theoretical framework, adapted to the circumstances prevailing at any given time and to the objectives assigned to the Union and the Member States, respectively. In defining that framework, public law, political science, philosophy, and sociology commonly draw on what are known as forms of the state or models of the state (*Staatsbilder*),¹⁷ which often apply simultaneously to the Union and the Member States. Examples include the fiscal state (*Steuerstaat*), the social state (*Sozialstaat*), the service-providing state (*Dienstleistungsstaat*), the military state (*Militärstaat*), the catalytic state, the administrative state, the entrepreneurial state, and the derisking state, among many others.¹⁸

6. Models of the state tend to emerge intuitively, usually in political discourse. They seek to capture changes and major transformations affecting the role of the

¹⁵ See the Joint Communication from the Commission to the European Parliament and the Council of April 6, 2016, JOIN(2016) 18 final, «Joint Framework on countering hybrid threats: a European Union response», available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016JC0018>; SARI, 2020a: 854.

¹⁶ AZOULAI, 2026: 10.

¹⁷ On forms of state, see AZOULAI, 2026: 10; CAPORASO, 1996: 30. On models of the state, see VOßKUHLE, 2001: 497.

¹⁸ Ibid.: 497, 508; CASSESE, 2013: 54; LEVI-FAUR, 2023: 1465; ZURSTRASSEN, 2025: 2.

state, its purposes, and its relationship with society. They do not merely describe reality—past, present, or future. They also serve as organizing ideas, reducing the complexity of new realities and opening up new avenues for analysis and research. They are therefore highly abstract, and their intension—that is, their defining content—remains imprecise. Indeed, a model of the state is often taken to characterize the legal system as a whole.¹⁹ Like all concepts, models of the state illuminate one part of reality—the aspect they seek to foreground—while obscuring others. They also possess considerable evocative power, with both positive and negative connotations. For these reasons, both the need for such models and the functions attributed to them must be properly justified.²⁰ Once firmly established, they may become embedded in legal doctrine through their connection with various constitutional principles.²¹

7. Since the major liberalization and privatization processes of the late twentieth century, undertaken in a context of intense Europeanization, the dominant theoretical framework for public action in Europe has been the «regulatory state,» alongside the «guarantor state» (*Gewährleistungsstaat*).²² Under this model, the state must establish regulatory structures that enable private actors to pursue public-interest objectives. This function operates both at the level of the Member States—whose capacity for sovereign decision-making has steadily diminished—and, most significantly, at the level of the Union, which is the principal source of the impetus for transformation.²³

8. This article seeks to demonstrate that the regulatory or guarantor state model cannot adequately account for the principal political and legal transformations currently taking place in Europe. To that end, it examines the underlying conditions (Section 2), purposes (Section 3), forms of action (Section 4), and governance structures (Section 5) of the Union and the Member States in the contemporary context. What is needed is a form of the state capable of illuminating new realities, revealing new connections within existing law, and bringing to light new problems requiring legal analysis. To serve this predominantly heuristic function, Section 6 proposes the concept of the «strategic state.» The model is constructed from the legal materials produced within the Union over the past decade, principally positive law, soft law, and case law. It seeks to capture the major trends of our time by distilling their defining features and translating them into legal terms.²⁴ It also necessarily incorporates new concepts that have recently gained currency, particularly in the

¹⁹ VOßKUHLE, 2001: 506-508, 509, 511.

²⁰ DÍEZ SASTRE, 2018: 191.

²¹ VOßKUHLE, 2001: 508.

²² FRANZIUS, 2003: 494; RUGE, 2004: 313. On the application of the idea of regulation in the European context and its distinction from public intervention in the economy, see MALARET I GARCÍA, 2003: 332-335.

²³ FRANZIUS, 2003: 497, 516, and 2006: 547.

²⁴ On the need to open legal doctrine to the prevailing trends of each period, see KLAFKI, 2025: 1002; on resilience, see BARCZAK, 2020: 611.

field of strategic studies.²⁵ To refine its definition, the strategic state is tested against alternative models advanced in legal scholarship—where an issue-specific approach predominates,²⁶ with some exceptions²⁷—and in political science, where the commitment to systematization is more pronounced.²⁸

2. UNDERLYING CONDITIONS

9. The development of a new form or model of the state is warranted by the emergence of historical, political, economic, or social phenomena that transform the purposes of the state and, consequently, its forms of action and governance structures. These phenomena constitute the underlying conditions for the corresponding model of the state. This was the case after World War II with the welfare state and the social state (*Sozialstaat*), implemented through a service-providing state (*Leistungsstaat*).²⁹ Subsequently, the reception in Europe of the American concept of the regulatory state was associated with the processes of privatization and deregulation driven by EU law.³⁰ Today, a number of transformations can be identified as the underlying conditions for a new model of the state: geopoliticization, securitization, and supranationalization. All three feature prominently in academic scholarship, particularly in political science, and are reflected in a large number of European legal rules adopted over the past decade. From a legal perspective, these are key concepts (*Schlüsselbegriffe*) destined to perform an important heuristic function, just as the concepts of privatization and globalization once did.³¹ Each is examined in turn below.

2.1. Geopoliticization

10. The trend toward geopoliticization can be traced back to the Great Recession of 2008, when major powers began using trade to gain leverage on the international stage. It subsequently intensified sharply with the beginning of Trump's first term in 2017,³² Russia's invasion of Ukraine in 2022, and Trump's second term in 2025. European Commission President Ursula von der Leyen has expressly referred on several occasions to a «geopolitical Union» and a «geopolitical Commission.»³³

²⁵ This is the case with hybrid threats and gray-zone conflicts: MILEVSKI, 2023: 718; BARCZAK, 2026: D12 et seq.

²⁶ See, for example, AZOULAI, 2026, and DOUGAN and HILLION, 2026.

²⁷ See the monographic study by ESTEBAN RÍOS, 2026.

²⁸ See, for example, REKOWSKI, 2025, and ZURSTRASSEN, 2025.

²⁹ See, generally, GARRARD, 2022: 179 et seq.

³⁰ MAJONE, 1994: 77.

³¹ DÍEZ SASTRE, 2018: 133 et seq.

³² STEINBACH, 2025: 1644.

³³ See, for example, the State of the Union Address delivered on September 13, 2023: https://ec.europa.eu/commission/presscorner/detail/en/speech_23_4426. For a detailed discussion of the construction of a «geopolitical Commission,» see HAROCHE, 2023: 970 et seq.

Concern about third countries and geopolitical pressure is, of course, not new at the European level.³⁴ The integration process has always been subject to external pressures. Since the end of the Cold War, however, European integration has focused on internal structures, particularly the establishment of the internal market. That process took place under the protection of an international order characterized by US hegemony.³⁵ The transformation of that order requires the Union to undergo a «geopolitical adaptation.»³⁶

11. Geopoliticization denotes a theoretical framework within which an issue or subject matter is approached as a geopolitical question.³⁷ This approach has spread beyond political geography and international relations, where it originated, to other disciplines.³⁸ In this sense, European integration is undergoing geopoliticization in all its dimensions.³⁹ The principal consequences of this approach are threefold. First, attention shifts to the conduct of other states, external influences, and the distribution of power.⁴⁰ Second, hard-power instruments and security measures assume greater importance. Finally, policy is directed toward questions concerning the definition or defense of a polity's own space or territory.⁴¹ Much of EU and national law and policy can be understood in these terms.

12. The three key reports on the future of the Union propose responses to this process of geopoliticization. The «Letta Report» identifies economic security as one of the central pillars of the future of the internal market in a new geopolitical landscape. It argues that the Union must enhance its resilience, improve its competitiveness, and safeguard its interests.⁴² The «Draghi Report,» for its part, proposes a range of measures to foster sustainable growth in the Union, taking into account the innovation gap with the United States and China. It identifies greater security and reduced dependencies as one area for action, with particular emphasis on critical raw materials and advanced technologies, foreign direct investment screening, and stronger defense and space capabilities.⁴³ Finally, the «Niinistö Report» takes as its starting point today's profound geopolitical, environmental, economic, social, and technological changes and focuses on the need to strengthen the Union's security and defense.⁴⁴

³⁴ In this regard, AZOULAI, 2026: 7, recalls Opinion 1/76 of the Court of Justice of 26 April 1977, delivered pursuant to Article 228(1) of the EEC Treaty on the Draft Agreement establishing a European laying-up fund for inland waterway vessels, ECLI:EU:C:1977:63.

³⁵ MIRÓ, 2023: 318-319; FREUDLSPERGER and SCHRAMM, 2026: 2067; DOUGAN and HILLION, 2026: 61.

³⁶ DOUGAN and HILLION, 2026: 63.

³⁷ The concept, understood in this sense, was coined by CADIER, 2019, in connection with the Union's Eastern Partnership.

³⁸ DEMIRCI *et al.*, 2026: 2089.

³⁹ FREUDLSPERGER and SCHRAMM, 2026: 2065; DAßLER and WEISS, 2026: 1272.

⁴⁰ PAQUET, 2001: 3.

⁴¹ MIRÓ, 2023: 316; ADRIAENSEN *et al.*, 2025: 3; FREUDLSPERGER and SCHRAMM, 2026: 2065.

⁴² LETTA, 2024: 134-135.

⁴³ DRAGHI, 2025: 7, 15, 20, 54 *et seq.*

⁴⁴ NIINISTÖ, 2024: 16.

13. These reports are aligned with several strategies developed at the European level, two of which are particularly noteworthy: the «EU Preparedness Union Strategy to Prevent and React to Emerging Threats and Crises» of 26 March 2025;⁴⁵ and the 2023 «European Economic Security Strategy,» revised in 2025 to strengthen the Union's resilience, secure its supply of critical raw materials, and protect value chains against potential disruptions.⁴⁶ For several years, moreover, this geopolitical approach has found expression in specific measures and rules of secondary legislation across a range of fields, including foreign direct investment screening (FDI);⁴⁷ internal market resilience (IMERA);⁴⁸ strategic autonomy in critical raw materials and semiconductors;⁴⁹ and the strengthening of the defense industry through Security Action for Europe (SAFE).⁵⁰

2.2. Securitization

14. Progressive geopoliticization has driven the «securitization» of EU and national law and policy.⁵¹ The turbulence of the present environment leaves our societies vulnerable to major shocks that cannot readily be anticipated.⁵² The deterioration of geopolitical relations, in an increasingly volatile, unstable, and dangerous world justifies investment in security and defense.⁵³ At the same time, advances in data science and technology are being used to improve the capacity to predict risks

⁴⁵ Available online: <https://webgate.ec.europa.eu/circabc-ewpp/d/d/workspace/SpacesStore/b81316ab-a513-49a1-b520-b6a6e0de6986/file.bin>

⁴⁶ Available online: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52023JC0020>. In the field of defense, NATO also endorsed a *Defence-Critical Supply Chain Security Roadmap* in June 2024: https://www.nato.int/content/dam/nato/webready/documents/factsheets/1200-26%20Factsheet%20Defence%20Critical%20Supply%20Chain%20Security%20Roadmap_en.pdf

⁴⁷ Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union.

⁴⁸ Regulation (EU) 2024/2747 of the European Parliament and of the Council of 9 October 2024 establishing a framework of measures related to an internal market emergency and to the resilience of the internal market and amending Council Regulation (EC) No 2679/98 (Internal Market Emergency and Resilience Act) (IMERA).

⁴⁹ Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020; and Regulation (EU) 2023/1781 of the European Parliament and of the Council of 13 September 2023 establishing a framework of measures for strengthening Europe's semiconductor ecosystem and amending Regulation (EU) 2021/694 (Chips Act).

⁵⁰ Council Regulation (EU) 2025/1106 of 27 May 2025 establishing the Security Action for Europe (SAFE) through the Reinforcement of the European Defence Industry Instrument.

⁵¹ The term is ambiguous and takes on different meanings depending on the particular context in which it is used—financial or international. For the purposes of this article, it is used in the latter sense, in connection with the rise of security measures at the international level. MIRÓ, 2023: 323; LABORIE IGLESIAS, 2026: 9.

⁵² ELLIOTT and ROBERTS, 2025: 564.

⁵³ NIINISTÖ, 2024: 4; DRAGHI, 2025: 54.

and detect dangers. These factors are transforming the field of security and profoundly changing the functions of the Union and the Member States.⁵⁴

15. The trend toward securitization probably began with the terrorist attacks of September 11. In this initial phase, the Union adopted its first European Security Strategy in 2003, focusing more on security than on defense.⁵⁵ The 2008 economic crisis significantly weakened European armed forces.⁵⁶ Since then, a culture of anticipation and constant alertness has gradually taken hold. This culture has been theorized through concepts such as the «nervous state» (*nervöser Staat*),⁵⁷ the *culture of fear*,⁵⁸ and the «security society» (*Sicherheitsgesellschaft*).⁵⁹ Although these concepts are primarily associated with terrorism, the range of perceived threats has since broadened to include natural disasters arising from the climate emergency.⁶⁰

16. In 2016, defense was brought within this security focus with the adoption of *A Global Strategy for the European Union's Foreign and Security Policy*. The strategy adopts a defensive tone, calling for enhanced capabilities and resilience, as well as strategic autonomy.⁶¹ In subsequent years, hybrid threats and attacks emerged that blurred the boundaries between peace, war, and conflict. The 2022 *Strategic Compass for Security and Defence* seeks to address these threats.⁶² Meanwhile, the pandemic and the development of artificial intelligence exposed the Union's strategic dependence in key areas. This accumulation of factors has fostered the perception that the Union is under constant threat and that safeguarding its strategic independence requires greater security.⁶³ Geopoliticization can thus be seen to have reinforced and expanded the trend toward securitization. The result is a drive for comprehensive preparedness against threats of every kind and for control over the Union's external borders. At the same time, the idea that the Union must become a significant military actor is gaining ground.⁶⁴

⁵⁴ LEVI-FAUR, 2023: 1466.

⁵⁵ *A Secure Europe in a Better World—European Security Strategy*, 12 December 2003: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:r00004>. BLOCKMANS, 2018: 1788–1789.

⁵⁶ *Ibidem*: 1786.

⁵⁷ BARCZAK, 2020: 2, 49.

⁵⁸ GLASSNER, 2018. For an earlier analysis of fear-driven decision-making, see SUNSTEIN, 2005.

⁵⁹ SINGELNSTEIN and STOLLE, 2012.

⁶⁰ RIFKIN, 2022: 1.

⁶¹ *Shared Vision, Common Action: A Stronger Europe—A Global Strategy for the European Union's Foreign and Security Policy*, June 2016: https://www.eeas.europa.eu/sites/default/files/eugs_review_web_0.pdf. *Council Conclusions on Implementing the EU Global Strategy in the Area of Security and Defence*, 14 November 2016: <https://data.consilium.europa.eu/doc/document/ST-14149-2016-INIT/en/pdf>. This shift in the Union's approach to defense had already been anticipated by BIEL *et al.*, 2013: 7. For analyses, see BLOCKMANS, 2018: 1793–1794; HILLION, 2018: 1675.

⁶² *A Strategic Compass for Security and Defence*, 2022: https://www.eeas.europa.eu/eeas/strategic-compass-security-and-defence-1_en. SARI, 2020a: 853. For an example of new hybrid threats, see URREA CORREAS, 2026.

⁶³ DRAGHI, 2025: 15; AZOULAI, 2026: 11.

⁶⁴ NIINISTÖ, 2024: 5, 13; DEMIRCI *et al.*, 2026: 2107; MOSER, 2026: 213.

17. Securitization denotes a conceptual framework within which different phenomena are framed as threats in order to construct security. The process is successful when existential threats are identified that require an urgent and exceptional response.⁶⁵ In broad terms, security may be understood as encompassing the protection of individuals, the preservation of public order, and responses to threats, all of which have traditionally been functions of the state.⁶⁶ Security requires the capacity to respond to risks of every kind. The risks concerned need not arise from human violence, as the concepts of food security and energy security demonstrate.⁶⁷ For that reason, civil protection, as a form of disaster response, is also a fundamental component of security.⁶⁸

18. Preparedness to respond to dangers and threats of every kind is, in fact, a defining feature of national security measures.⁶⁹ The concept of national security can be traced back to the emergence of the Westphalian state in the seventeenth century, although it became widespread primarily after World War II. It refers to the state's capacity to respond to all kinds of potential threats, which today include terrorism, natural disasters, cyberattacks, and military aggression, among others. National security therefore permeates public action across multiple dimensions, extending beyond the mobilization and deployment of the armed forces—although these remain highly significant. It is pursued through policies concerning the economy, energy, the environment, food security, migration and asylum, and cybersecurity, to give only a few examples.⁷⁰

19. It might therefore be said that the securitization of the Union entails incorporating national security into its purposes. Under Article 4(2) TEU, however, national security remains the responsibility of the Member States.⁷¹ Indeed, both primary and secondary law—particularly in the field of data protection—provide for circumstances in which Member States may derogate from, or invoke exceptions to, EU rules on security grounds.⁷² Several concepts of security are used for these purposes: national security (Article 4(2) TEU); public security (Articles 36, 45, 52, and

⁶⁵ MCDONALD, 2008: 563, 580. For a detailed discussion of the origin and meaning of the concept within the Copenhagen School, see PINYOL-JIMÉNEZ, 2025: 53 et seq., 56.

⁶⁶ DRAGOMIR and BERINDEA, 2026: 19.

⁶⁷ See, for example, the effects of global warming on the drought in Europe in 2026 and its impact on energy production: MAGUIRE, 2026.

⁶⁸ FAULKNER *et al.*, 2024: 1.

⁶⁹ In Spain, Act 36/2015 of 28 September on National Security provides the legal framework in this field and encompasses the 2021 National Security Strategy, approved by Royal Decree 1150/2021 of 28 December. An Annual National Security Report is prepared each year. It analyzes the areas identified in the Strategy and highlights the most significant achievements and challenges in each of them. The most recent report is the 2025 report: https://www.dsn.gob.es/sites/default/files/2026-05/Informe%20Anual%20de%20Seguridad%20Nacional%202025%20-%20Accesible_2.pdf. Germany likewise adopted its *National Security Strategy: Robust. Resilient. Sustainable. Integrated Security for Germany (Nationale Sicherheitsstrategie. Wehrhaft. Resilient. Nachhaltig. Integrierte Sicherheit für Deutschland)* in 2023. On the Federal Resilience Strategy, see KLAFFKI, 2025: 1001. Italy is in the process of adopting a National Security Strategy.

⁷⁰ For a detailed discussion, see KHALIL, 2025: 2065-2066.

⁷¹ This provision was proposed in the 2004 Constitutional Treaty and incorporated into the Treaty of Lisbon in 2007.

⁷² ØLYKKE, 2025: 1121-1122, 1131.

65 TFEU); internal security (Articles 71, 72, and 276 TFEU); and essential security interests (Article 346 TFEU).⁷³

20. The Court of Justice has held that security is the common denominator of all these concepts and that they are distinguished not by the kind of security they protect, but by the types of security threats they address.⁷⁴ Accordingly, security encompasses not only the military interests of the Member States but also nonmilitary interests, such as maintaining a minimum domestic industrial production capacity.⁷⁵ In the field of data protection, the Court's case law has placed national security above public security and other comparable objectives. The Court has defined national security—in the field of data protection and beyond—as follows:

21. «In that regard, it should be noted, at the outset, that Article 4(2) TEU provides that national security remains the sole responsibility of each Member State. That responsibility corresponds to the primary interest in protecting the essential functions of the State and the fundamental interests of society and encompasses the prevention and punishment of activities capable of seriously destabilising the fundamental constitutional, political, economic or social structures of a country and, in particular, of directly threatening society, the population or the State itself, such as terrorist activities.»⁷⁶

22. Although grounded in the wording of the Treaty, this statement by the Court of Justice coexists with the growing conferral of powers on the Union in the fields of risk prevention and management and crisis response. These powers can be understood as contributing to the safeguarding of European national security. Security policy within the Union is implemented through regulatory instruments, expert coordination, information sharing, and spending power. Together, these forms of action are giving rise to an integrated security model.⁷⁷ The introduction of a new vocabulary at the European level—including strategic autonomy and resilience—allows the Union to enter a domain apparently reserved to the Member States, but one in which those states have themselves recognized the need for integration, as discussed below. New measures have thus emerged, including foreign investment screening in the internal market and efforts to ensure that European data are hosted in Europe.⁷⁸

⁷³ An attempt to systematize these concepts can be found in the Opinion of Advocate General Emiliou delivered on 2 March 2023 (EU:C:2023:151). His reasoning was accepted by the Court of Justice in its judgment of 7 September 2023, *Commission v Poland*, C-601/21 (EU:C:2023:629). For a doctrinal proposal to systematize the distinction between, and scope of, security-based derogations and exceptions at the European level, see ØLYKKE, 2025: 1126, 1136.

⁷⁴ Judgment of 7 September 2023, *Commission v Poland*, C-601/21, EU:C:2023:629, paras. 77-78.

⁷⁵ ØLYKKE, 2025: 1128-1129.

⁷⁶ Judgment of 6 October 2020, *La Quadrature du Net and Others*, Joined Cases C-511/18, C-512/18, and C-520/18, EU:C:2020:791, para. 135. This definition was adopted in the judgment of 7 September 2023, *Commission v Poland*, C-601/21, EU:C:2023:629. For a detailed discussion, see ØLYKKE, 2025: 1148.

⁷⁷ DRAGOMIR and BERINDEA, 2026: 20-21.

⁷⁸ HILDELANG and MÖBERG, 2020: 1428; AZOULAI, 2020: 1681; ESTEBAN RÍOS, 2026: 198-199.

2.3. SUPRANATIONALIZATION

23. The trends toward geopoliticization and securitization described above have produced various institutional effects within the Union.⁷⁹ This process has considerably strengthened the Commission's role, while correspondingly increasing the involvement of the Court of Justice and the European Parliament vis-à-vis the Member States. It also inevitably invites parallels with the *sui generis* construction of a European state. The Union is plainly not a state, whether in political or legal terms.⁸⁰ Its sources of legitimacy differ from those of a state, as do the enforcement mechanisms at its disposal. It lacks full competence over foreign policy, security, and defense, and does not possess the monopoly on the legitimate use of force characteristic of the Weberian conception of the state.⁸¹ Moreover, it continues to combine two modes of governance: supranational and intergovernmental.⁸² The Union has displayed state-like characteristics only in certain areas of economic and social regulation.⁸³ The changes of recent years, however, reveal that it has acquired certain features typical of state action.⁸⁴

24. More specifically, the Union performs essential state functions and employs instruments characteristic of states as it responds to the new geopolitical context, particularly within the sphere of supranational integration. The nature of the risks and threats facing Europe has been invoked to justify stronger Union action.⁸⁵ The Member States, for their part, recognize the benefits of cooperation in view of the cross-border nature of the threats they face.⁸⁶ The need for the Union to act and defend its own values has become a mantra in political and academic discourse, inevitably calling to mind the state.⁸⁷ Many of the measures adopted are justified by a lack of interoperability and the need to achieve sufficient scale to meet crisis-response and defense needs.⁸⁸

25. This is particularly apparent in civil protection, industrial policy, security, and defense, where efforts are under way to enhance the Union's capacity to act.⁸⁹ Cooperation in civil protection has evolved over recent decades toward a stronger

⁷⁹ These effects are analyzed by ADRIAENSEN *et al.*, 2025: 19 et seq.

⁸⁰ For a strongly critical view of the tendency to conflate the Union with a state, see GOVAERE, 2026: 143. DOUGAN and HILLION, 2026: 62, refer to Opinion 2/13 of the Court of Justice of 18 December 2014 on the accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECLI:EU:C:2014:2454), in which the Union is denied the status of a state on account of its very nature. On the well-established understanding of the Union as a non-state entity, see DEMIRCI *et al.*, 2026: 2091.

⁸¹ GRIMM, 2012: 8; AZOULAI, 2026: 9.

⁸² FAULKNER *et al.*, 2024: 2; REKOWSKI, 2025: 251; STEINBACH, 2025: 1636.

⁸³ MAJONE, 2014: 1216.

⁸⁴ REKOWSKI, 2025: 251.

⁸⁵ MIRÓ, 2023: 316.

⁸⁶ FAULKNER *et al.*, 2024: 2.

⁸⁷ See, generally, AZOULAI, 2026: 6.

⁸⁸ With regard to defense, see STEINBACH, 2025: 1638, 1652.

⁸⁹ REKOWSKI, 2025: 252; MOSER, 2026: 212.

Union response capacity, particularly in the aftermath of the pandemic.⁹⁰ Industrial policy, traditionally the preserve of the state, is also undergoing progressive supranationalization.⁹¹ This is explained to a large extent by its connection with defense, which academic scholarship conceptualizes in economic terms as a European public good, alongside other public goods such as digital and energy infrastructure.⁹² A «spillover» effect thus occurs as supranational policies are increasingly oriented toward defense because of the overlap between the economic and military spheres.⁹³

26. In the field of civil protection, the competence conferred by Article 196 TFEU and the solidarity clause in Article 222 TFEU have provided the basis for promoting a supranational approach in response to a succession of disasters, including droughts, wildfires, and the pandemic. In 2019, a reform of the Union Civil Protection Mechanism established a two-tier structure: a European pool of response capacities voluntarily committed by the Member States and a Union strategic reserve (rescEU).⁹⁴ The reserve is deployed as a last resort at the request of a Member State. It is managed by the Commission in close coordination with the Member States that own the relevant assets, which must in any event be kept separate from national capacities.⁹⁵ The Mechanism was further strengthened in 2021 in response to the pandemic.⁹⁶

27. Defense policy and support for the defense industry are also being pursued outside the Common Security and Defence Policy (CSDP). This is reflected in the appointment of the first Commissioner for Defence and Space in 2024.⁹⁷ It is also reflected in the Commission's creation of the Directorate-General for Defence Industry and Space (DG DEFIS), which supports investment and the development of defense supply chains.⁹⁸ The Commission has thus emerged as a key actor in defense,⁹⁹ primarily by drawing on its planning and regulatory capacities and its spending power. This process of supranationalization has increased the European Parliament's involvement in defense decisions and expanded the opportunities for judicial review by the Court of Justice, since the role of both institutions is highly constrained within the CSDP framework.¹⁰⁰ Nevertheless, international public procurement structures outside the Union remain essential in the field of defense. These

⁹⁰ FAULKNER *et al.*, 2024: 3, 20.

⁹¹ See the Commission Communication, *A Competitiveness Compass for the EU*, 29 January 2025: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52025DC0030>. ZURSTRASSEN, 2025: 2.

⁹² NIINISTÖ, 2024: 5; STEINBACH, 2025: 1639, 1664, 1666.

⁹³ STEINBACH, 2025: 1639, 1645.

⁹⁴ Decision (EU) 2019/420 of the European Parliament and of the Council of 13 March 2019 amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism.

⁹⁵ For a detailed discussion, see FAULKNER *et al.*, 2024: 8-10.

⁹⁶ See Regulation (EU) 2021/836 of the European Parliament and of the Council of 20 May 2021 amending Decision No 1313/2013/EU on a Union Civil Protection Mechanism.

⁹⁷ MOSER, 2026: 217.

⁹⁸ See https://commission.europa.eu/about/departments-and-executive-agencies/defence-industry-and-space_en (last accessed 9 August 2026).

⁹⁹ STEINBACH, 2025: 1646; MOSER, 2026: 217.

¹⁰⁰ MOSER, 2026: 219-220.

include procurement through the Organisation for Joint Armament Co-operation (OCCAR), whose members are Belgium, France, Germany, Italy, Spain, and the United Kingdom; the NATO Support and Procurement Agency (NSPA); and the US Government's Foreign Military Sales (FMS) program.

28. Despite this trend, supranationalization remains subject to a clear limit. The Member States retain institutional control over the CSDP (Article 24(1) TEU) and continue to perform the essential functions associated with national security,¹⁰¹ as discussed above. In this regard, Article 346(1)(b) TFEU allows any Member State to take such measures as it considers necessary for the protection of the «essential interests of its security» in connection with the production of or trade in arms, munitions, and war material, provided that those measures do not adversely affect conditions of competition in the internal market regarding products not intended for specifically military purposes. The relevant products are specified in a list drawn up by the Council.¹⁰² Article 346(1)(a) TFEU also provides that no Member State is required to supply information whose disclosure it considers contrary to the essential interests of its security. Reliance on these provisions must be justified on grounds of necessity and proportionality.¹⁰³ In any event, they make it more difficult to develop shared intelligence at the European level.

29. In this context of progressive securitization and supranationalization, a feature characteristic of nation-building processes has become increasingly prominent in political discourse, academic scholarship, and—more importantly—the case law of the Court of Justice: the formation of a «Union identity» extending beyond the purely economic perspective of the market.¹⁰⁴ Europeans are brought together by a shared sense of vulnerability and impending catastrophe, which EU law is called upon to avert. Asserting this identity entails being able to defend it against existential threats within the limits established by the Treaties.¹⁰⁵ Accordingly, scholars refer to the Union's control over its «destiny» and to fundamental elements of European law: family, society, and territory.¹⁰⁶ These claims clearly reflect a classical logic of state

¹⁰¹ STEINBACH, 2025: 1636, 1643.

¹⁰² ØLYKKE, 2025: 1129.

¹⁰³ Judgments of 15 May 1986, *Johnston*, C-222/84, EU:C:1986:206; 16 October 2003, *Commission v Belgium*, C-252/01, EU:C:2003:547; 8 April 2008, *Commission v Italy*, C-337/05, EU:C:2008:203; 7 June 2012, *Insinöörtoimisto InsTiimi*, C-615/10, EU:C:2012:324; 2 April 2020, *Commission v Poland*, C-715/17, EU:C:2020:257; and 26 April 2022, *NW*, Joined Cases C-368/20 and C-369/20, EU:C:2022:298. See also the Commission's *Interpretative Communication on the Application of Article 296 of the Treaty in the Field of Defence Procurement* {SEC(2006) 1554} {SEC(2006) 1555}, COM(2006) 779 final: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52006DC0779>. Article 296 EC corresponds to the current Article 346 TFEU. ØLYKKE, 2025: 1121, 1128.

¹⁰⁴ On the political defense of the Union's values, see AZPITARTE SÁNCHEZ, 2022. As regards the case law, see the judgments of 16 February 2022, *Hungary v Parliament and Council*, C-156/21, EU:C:2022:97, paras. 127 and 232; 16 February 2022, *Poland v Parliament and Council*, C-157/21, EU:C:2022:98, paras. 145 and 265; the judgment of the General Court of 27 July 2022, *RT France v Council*, T-125/22, EU:T:2022:483; and the judgment of 29 April 2025, *Commission v Malta*, C-181/23, EU:C:2025:283, para. 93. See also MIRÓ, 2023: 331.

¹⁰⁵ AZOULAI, 2026: 12, 13; ROSAS, 2026: 255.

¹⁰⁶ Respectively, MOSER, 2026: 214, 222; and AZOULAI, 2026: 17.

survival, even though the Union is not, in technical terms, a state. There are, nevertheless, critical voices regarding the legal bases and procedures on which the Union is relying to pursue this strategic turn.¹⁰⁷

30. The consolidation of the Union's identity brings with it a new, collective dimension in the protection of European public order. This dimension extends beyond the traditional protection of liberal values and fundamental rights, which is predominantly individual in character.¹⁰⁸ It enables the Union to act as an independent political entity in accordance with its own values and interests.¹⁰⁹ In this regard, scholars have drawn on ecological studies of how animals respond to a changing environment. These studies show a shift from the pursuit of individual efficiency under normal conditions to a collective pursuit of resilience, with the ultimate aim of returning to an individual focus once normality has been restored.¹¹⁰ It should be emphasized that resilience and crisis-response measures may come into tension with the protection of fundamental rights and freedoms, as often occurs in the tension between exception and normality.¹¹¹ It is therefore necessary to consider whether existing ideas on the law of exception remain applicable in this context or have become outdated. Pursuing the new purposes of the Union and the Member States may require a recalibration of proportionality when determining the burdens imposed on citizens, as well as the capacity to anticipate a state of exception (*antizipierter Ausnahmezustand*) through rules incorporated into the legal system.¹¹²

3. PURPOSES

31. Any proposal for a new model of the state must be justified by the emergence of new public purposes that earlier models fail adequately to capture or whose importance they do not sufficiently emphasize. In the case of the regulatory and guarantor state, the model revolves around a new form of responsibility aimed at ensuring, through regulatory instruments, the provision of the public services characteristic of the social state (*Gewährleistungsverantwortung*).¹¹³ Its principal aim is thus to promote economic efficiency.¹¹⁴ It is reasonable to conclude that this responsibility no longer adequately accounts for the roles now assumed by the Union and the Member States. They now pursue new purposes (*Zwecke*), which require the identification of specific tasks or functions (*Aufgaben*).¹¹⁵ This article addresses only the former.¹¹⁶

¹⁰⁷ DOUGAN and HILLION, 2026: 67.

¹⁰⁸ AZOULAI, 2026: 12.

¹⁰⁹ KRUCK and WEISS, 2023: 1211.

¹¹⁰ PAQUET, 1995: 259.

¹¹¹ DOUGAN and HILLION, 2026: 65.

¹¹² For a detailed discussion, see BARCZAK, 2020: 208, 675.

¹¹³ See, generally, FRANZIUS, 2003: 507.

¹¹⁴ MAJONE, 1994: 79.

¹¹⁵ For a detailed discussion, see FERNÁNDEZ GAZTEA, 2025: 46 et seq.

¹¹⁶ For an identification of the strategic tasks or functions of the Union and the Member States, see FERNÁNDEZ GAZTEA, 2026.

32. As noted above, the securitization of the Union and the Member States is directed toward promoting national security [§ 18]. National security could well serve as the central purpose of the new model of the state—not so much because it is novel, but because of its contemporary significance. However, the absence of a legal basis enabling the Union to act in this field, which is reserved to the Member States, has led to the development of new conceptual anchors. The purposes on which a new model of the state may be built are therefore strategic autonomy, resilience, and defense. The first two originated in political discourse and must therefore be given legal form. All three must be pursued continuously because risks and threats are unpredictable and constantly evolving.¹¹⁷ They are neither transitional nor temporary in nature. This clearly distinguishes them from approaches premised on the exceptional or contingent nature of risks and threats—approaches associated with the law of exception that have prevailed in Europe in recent years.¹¹⁸

33. In any event, these purposes are connected to the ultimate purpose that justifies the existence of the state: the preservation of peace and security.¹¹⁹ The German Federal Constitutional Court had occasion to articulate this idea in its well-known *Kontaktsperre* judgment concerning the contact ban imposed on Red Army Faction terrorists (*Kontaktsperre-Urteil*).¹²⁰ Although the Union is not a state, its ultimate aim is to promote peace, its values, and the well-being of its peoples (Article 3(1) TEU).¹²¹ Its responsibilities also include preserving the peace and security of its Member States (Articles 23 and 46 TEU).¹²² These purposes may therefore be attributed both to the Union and to the Member States.¹²³ Their achievement also requires a whole-of-society approach¹²⁴ involving the entire community—state and society alike.¹²⁵ Nevertheless, the state remains responsible for ensuring that these purposes are fulfilled.¹²⁶ Each of these purposes is examined below.

¹¹⁷ On resilience in the digital sphere, see HOFFMANN-RIEM, 2023: 627.

¹¹⁸ See, for example, AUBY, 2023: 8.

¹¹⁹ ISENSEE, 2016: 39.

¹²⁰ BVerfG 49, 24 (56), decision of 1 August 1978: «Die Sicherheit des Staates als verfaßte Friedens- und Ordnungsmacht und die von ihm zu gewährleistende Sicherheit seiner Bevölkerung sind Verfassungswerte, die mit anderen im gleichen Rang stehen und unverzichtbar sind, weil die Institution Staat von ihnen die eigentliche und letzte Rechtfertigung herleitet.»

¹²¹ GOVAERE, 2026: 143; DOUGAN and HILLION, 2026: 62.

¹²² SCHMIDT, 2025: 224.

¹²³ AZOULAI, 2026: 10.

¹²⁴ SCHULZE-FIELITZ thus describes this as «Allzuständigkeit, nicht aber Alleinzuständigkeit» (1990: 30). Subsequently, on the shared responsibility for protecting the population and critical infrastructure against natural events (pandemics and natural disasters) and human-induced events (terrorism and acts of aggression), see WEIß, 2002: 25; BARCZAK, 2020: 607.

¹²⁵ NIINISTÖ, 2024: 10; BARCZAK, 2026: D 92 et seq. On resilience in the digital sphere, see HOFFMANN-RIEM, 2023: 627; on responsibility for responding to crises, BECKER, 2024: 50; and on building resilience, KLAFKI 2025: 1001.

¹²⁶ BURGI, 1999: 28; WEIß, 2002: 291; FRANZIUS, 2003: 493.

3.1. Strategic Autonomy

34. The concept of strategic autonomy originated in Gaullist France as a means of avoiding dependence on the United States for security. Over time, the concept moved from the national to the European level and expanded beyond security and defense to encompass a range of EU policy areas, as illustrated by the Letta and Draghi Reports.¹²⁷ This Europeanization can be understood as a response to the transformation of the world order.¹²⁸ Strategic autonomy first emerged in the EU context as a key concept in the 2016 EU Global Strategy.¹²⁹ Subsequently, in 2021, the Commission characterized it as «open strategic autonomy.»¹³⁰ In doing so, the Commission sought to forestall possible protectionist shifts by certain Member States—particularly those with greater industrial and technological capabilities—and to prevent the Union from becoming isolated.¹³¹

35. Today, the strategic autonomy of the Union and the Member States denotes the pursuit of economic and political sovereignty. This requires reducing dependence on, and vulnerabilities to, third countries while promoting leadership in emerging technological sectors. The Union's economic and regulatory power is thus deployed to preserve its geopolitical influence and safeguard its freedom of action.¹³² In the context of geopoliticization and securitization discussed above [§§ 10 et seq.], strategic autonomy is connected to essential purposes of the state, such as safeguarding sovereignty, territorial integrity, and independence.¹³³ This purpose is pursued through new forms of action and governance structures, as explained below.

36. Strategic autonomy extends across the Union's principal policy areas: competition, industry, energy, agriculture, the green transition, defense, justice, foreign policy, trade, health, the digital transition, and outer space.¹³⁴ The European Critical Raw Materials Act¹³⁵ and the European Chips Act¹³⁶ are among the legislative measures intended to reduce dependencies and vulnerabilities. European capabilities are

¹²⁷ LETTA, 2024; DRAGHI, 2025.

¹²⁸ REKOWSKI, 2025: 250.

¹²⁹ See footnote 61.

¹³⁰ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 18 February 2021, COM(2021) 66 final, *Trade Policy Review—An Open, Sustainable and Assertive Trade Policy*. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52021DC0066>

¹³¹ MIRÓ, 2023: 330; REKOWSKI, 2025: 261.

¹³² ZURSTRASSEN, 2025: 2.

¹³³ SCHMIDT, 2025: 228; CALLEJA Y BIANCHI, 2026: 424 et seq.

¹³⁴ En detalle, MIRÓ, 2023: 317; BLÁZQUEZ NAVARRO, 2024: 141; REKOWSKI, 2025: 254.

¹³⁵ WEIß, 2025: 413. The Spanish-language version of Regulation (EU) 2024/1252 (footnote 49) renders «critical raw materials» as *materias primas fundamentales* rather than *materias primas críticas*, a choice that appears more consistent with the strategic nature of the Regulation. Indeed, versions in other languages tend to retain the equivalent term.

¹³⁶ See footnote 49.

promoted through legal instruments such as the EDIP Regulation¹³⁷ in the field of the defense industry—where strategic autonomy is particularly important—and the Net-Zero Industry Act.¹³⁸ «Made in Europe» provisions in defense procurement,¹³⁹ which are also expected to be incorporated into the future public procurement legislation replacing the current directives, pursue the same purpose.¹⁴⁰ Strategic autonomy is omnipresent in the digital environment. One important reason is that a large proportion of the data generated in Europe is hosted on servers operated by third-country providers subject to foreign jurisdictions.¹⁴¹ In this context, strategic autonomy gives way to a distinct concept with equivalent objectives: digital sovereignty or technological sovereignty.¹⁴²

3.2. Resilience

37. Resilience is inextricably linked to strategic autonomy.¹⁴³ It is undoubtedly one of the most fashionable concepts of our time.¹⁴⁴ Indeed, reference has even been made to the «Age of Resilience.»¹⁴⁵ The concept originated in materials science and subsequently migrated to psychology, where it underwent significant development. For at least two decades, it has also featured in the social sciences, particularly ecology and political science, as well as in security and natural-disaster studies.¹⁴⁶ In recent years, particularly since the pandemic, the concept has appeared in numerous legislative and regulatory texts of various kinds, at both the EU and national levels.¹⁴⁷ Resilience is therefore a paradigmatic *traveling concept*, moving across disciplines and fields of knowledge.¹⁴⁸

¹³⁷ Regulation (EU) 2025/2643 of the European Parliament and of the Council of 16 December 2025 establishing the European Defence Industry Programme and a framework of measures to ensure the timely availability and supply of defence products ('EDIP Regulation'). On the difficulties involved in achieving strategic autonomy in this field, see European Court of Auditors, Review 01/2026, *EU Defence Policy in the Spotlight*: https://www.eca.europa.eu/ECAPublications/RV-2026-01/RV-2026-01_EN.pdf.

¹³⁸ Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe's net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724.

¹³⁹ MOSER, 2026: 221.

¹⁴⁰ On measures of this kind, see ESTEBAN RÍOS, 2026: 268. As well as the Proposal for a Regulation on public contracts and concessions, 9.9.2026 (articles 70-77).

¹⁴¹ MIRÓ, 2023: 325.

¹⁴² This is expressly stated by the European Commission in the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 9 March 2021, COM(2021) 118 final, 2030 *Digital Compass: the European Way for the Digital Decade*, footnote 3.

¹⁴³ The 2016 EU Global Strategy, footnote 61.

¹⁴⁴ BOSCHETTI, 2023: 209.

¹⁴⁵ RIFKIN, 2022: 2.

¹⁴⁶ BARCZAK, 2020: 605-606; RIXER, 2021: 44-45.

¹⁴⁷ KLAFKI, 2025: 1000-1001.

¹⁴⁸ In the terms coined by Mieke BAL, 2002.

38. Consistent with its etymological origin in the Latin *resilire*, resilience may be defined as the capacity of systems, institutions, or infrastructure to overcome crises through processes of adaptation without losing their function or identity. A resilient system must be capable of absorbing the impact of a threat, recovering, and adapting rapidly and pragmatically, while learning from crises experienced in the past.¹⁴⁹ Resilience thus has strong symbolic and metaphorical resonance.¹⁵⁰ It is also a matter of degree and may relate to any kind of crisis, dangerous situation, or disruption.¹⁵¹ In public policy, resilience-building must go beyond conventional analyses focused solely on efficiency or the optimization of resources. This entails promoting diversity in policy design, experimentation, and the creation of redundancies or duplications.¹⁵² Building resilience therefore has a direct impact on the forms of action employed by the Union and the Member States [§§ 46 et seq.] and on their governance structures [§§ 55 et seq.].

39. The national recovery and resilience plans developed under NextGenerationEU followed precisely this approach. Like many measures adopted subsequently, they sought to build the collective resilience of both the state and society.¹⁵³ One of the key components of this effort was the promotion of innovation capable of enhancing anticipatory and adaptive capacity. Promoting the Union's strategic autonomy may itself be understood as contributing to resilience-building through measures such as fostering and diversifying European production and establishing strategic reserves¹⁵⁴—including reserves of critical raw materials,¹⁵⁵ medical countermeasures,¹⁵⁶ gas,¹⁵⁷ and critical medicines.¹⁵⁸ Finally, resilience-building focuses on strengthening strategic structures through measures targeting the internal market itself,¹⁵⁹ critical entities,¹⁶⁰

¹⁴⁹ ISENSEE, 2016: 33; BEHNKE and ECKHARD, 2022: 6; KLAFFKI, 2025: 1001.

¹⁵⁰ ZORZETTO, 2023: 205.

¹⁵¹ BARCZAK, 2020: 608-609.

¹⁵² On this point, see TALEB, 2022: 312; RIFKIN, 2022: 11 et seq. See also LAWRENCE *et al.*, 2024: 14.

¹⁵³ RIXER, 2021: 43.

¹⁵⁴ European Council, *Special Meeting of the European Council—Conclusions*, 1–2 October 2020, Brussels.

¹⁵⁵ See footnote 49.

¹⁵⁶ Council Regulation (EU) 2022/2372 of 24 October 2022 on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures in the event of a public health emergency at Union level.

¹⁵⁷ Regulation (EU) 2022/1032 of the European Parliament and of the Council of 29 June 2022 amending Regulations (EU) 2017/1938 and (EC) No 715/2009 with regard to gas storage.

¹⁵⁸ On 12 May 2026, the Council, the Parliament, and the Commission reached agreement on the future Regulation intended to enhance the resilience of the supply of critical medicines: <https://www.consilium.europa.eu/en/press/press-releases/2026/05/12/critical-medicines-act-council-and-parliament-reach-provisional-deal/>

¹⁵⁹ IMERA (footnote 48).

¹⁶⁰ Directive (EU) 2022/2557 of the European Parliament and of the Council of 14 December 2022 on the resilience of critical entities and repealing Council Directive 2008/114/EC.

supply chains,¹⁶¹ soil,¹⁶² and key sectors such as finance¹⁶³ and health.¹⁶⁴ Networks and information systems play a crucial role in fostering the resilience of the community as a whole.¹⁶⁵ Specific legislation has therefore also been adopted to strengthen cybersecurity and cyber resilience.¹⁶⁶

3.3. Defense

40. One of the principal public goods that the state must provide is internal and external security.¹⁶⁷ Security requires the development of defense capabilities, which are closely connected to strategic autonomy and the building of resilience.¹⁶⁸ Defense encompasses the resources, systems, structures, and policies of public authorities aimed at protecting their populations and interests from threats and attacks in any «operational domain.»¹⁶⁹ Under NATO doctrine, these domains are land, maritime, air, cyberspace, and space.¹⁷⁰ Other proposed domains include the cognitive domain,¹⁷¹ while some approaches treat law itself as a new operational domain.¹⁷²

41. Defense as a public purpose also encompasses the conditions and activities that enhance defense capabilities, including technological innovation, industrial

¹⁶¹ Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859; and the Chips Act (footnote 49).

¹⁶² Directive (EU) 2025/2360 of the European Parliament and of the Council of 12 November 2025 on soil monitoring and resilience (Soil Monitoring Law).

¹⁶³ Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014, and (EU) 2016/1011 (DORA).

¹⁶⁴ Regulation (EU) 2022/2371 of the European Parliament and of the Council of 23 November 2022 on serious cross-border threats to health and repealing Decision No 1082/2013/EU; and Council Regulation (EU) 2022/2372 of 24 October 2022 on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures in the event of a public health emergency at Union level.

¹⁶⁵ KALNIETE and PILDEGOVIČS, 2021: 24 et seq.; TORREBLANCA, 2026: 23-24.

¹⁶⁶ Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive); and Regulation (EU) 2024/2847 of the European Parliament and of the Council of 23 October 2024 on horizontal cybersecurity requirements for products with digital elements and amending Regulations (EU) No 168/2013 and (EU) 2019/1020 and Directive (EU) 2020/1828 (Cyber Resilience Act).

¹⁶⁷ See, generally, LEVI-FAUR, 2023: 1461.

¹⁶⁸ On the close relationship between societal resilience and defense, see HERNÁNDEZ GARCÍA, 2025: 9.

¹⁶⁹ MOSER, 2026: 210.

¹⁷⁰ AJP-01 Allied Joint Doctrine, Ed. F, v.1 (December 2022) – COEMED.

¹⁷¹ CESEDEN, Working Paper 01/2020, «*Implicaciones del ámbito cognitivo en las Operaciones Militares*,» Spanish Institute for Strategic Studies, 2020.

¹⁷² SARI, 2020a: 860 and 2020b: 14.

capabilities, procurement, investment, and the infrastructure required for military mobility. Like strategic autonomy and resilience, defense therefore cuts across public policy.¹⁷³ Defense ordinarily focuses on anthropogenic hazards and threats,¹⁷⁴ although military resources and personnel may also be mobilized to address other types of threats, such as natural disasters.

42. In the European context, there can be no doubt that Member States are under an obligation to ensure internal and external security and to act in any crisis.¹⁷⁵ This is one source of the legitimacy of modern states and, depending on the context, may even be linked to a fundamental right to security.¹⁷⁶ The European Union, however, suffers from a competence deficit in this area.¹⁷⁷ Defense has traditionally been left to the Member States through the intergovernmental Common Security and Defence Policy (CSDP). The purpose of the CSDP is to enable small-scale peacekeeping or stabilization operations beyond the Union's borders (Articles 42(1) and 43(1) TEU). If a Member State is the victim of armed aggression on its territory, responsibility lies with the Member States (Article 42(7) TEU), not the Union. This became apparent when France requested assistance following the 2015 terrorist attacks.¹⁷⁸

43. Since Russia's invasion of Ukraine, however, defense has increasingly been presented as a shared responsibility within the Union.¹⁷⁹ The present context requires the gradual development of a «common strategic culture»¹⁸⁰ and greater operational capacity. To that end, strategic autonomy is being promoted in the defense industry and in relation to dual-use goods and infrastructure, while resilience is being strengthened along the lines discussed above. In parallel, numerous civilian policies relating to the internal market, civil protection, industry, infrastructure, and research, development, and innovation funding must be reoriented. Only in this way can overall military capabilities be strengthened.¹⁸¹

44. From an organizational perspective, the Union's military structures remain under the Council's control. The European Union Military Staff is located within

¹⁷³ The definition and scope of defense are drawn from MOSER, 2026: 210.

¹⁷⁴ KLAFKI, 2025: 1002.

¹⁷⁵ RIXER, 2021: 50.

¹⁷⁶ See BECKER, 2024: 50. On a fundamental right to defense, see BARCZAK, 2026: D 8.

¹⁷⁷ MÜLLER, 2021: 123.

¹⁷⁸ SCHMIDT, 2025: 226-227.

¹⁷⁹ SARMIENTO, 2026: 275.

¹⁸⁰ Josep BORRELL FONTELLES (High Representative of the Union for Foreign Affairs and Security Policy) referred on several occasions to both its absence and the need to develop it. See, for example, his hearing before the European Parliament in November 2019: [https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/639311/EXPO_BRI\(2019\)639311_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/639311/EXPO_BRI(2019)639311_EN.pdf)

¹⁸¹ MOSER, 2026: 211, 215. In this connection, particular attention should be drawn to the tightening of the export-control regime for dual-use items—items with both civilian and military applications—under Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items.

the European External Action Service.¹⁸² Following the 2016 Brexit referendum and the resulting prospect of losing the United Kingdom's military capabilities, two measures were adopted. In 2017, Permanent Structured Cooperation (PESCO) was established on the basis of the TEU (Articles 42(6) and 46 and Protocol No 10).¹⁸³ It is a framework designed to foster the joint development of military capabilities by the Member States, although it has not achieved the desired impact.¹⁸⁴ That same year, a permanent structure for planning and conducting joint military operations was created—the Military Planning and Conduct Capability (MPCC).¹⁸⁵ Under the 2022 Strategic Compass, the MPCC may also assume responsibility for executive operations. Since 2025, it has also served as the preferred command and control structure for the EU Rapid Deployment Capacity (EU RDC). All these steps appear to point toward the gradual creation of a European army.¹⁸⁶

45. The process of supranationalization, already apparent at the organizational level, has also been accompanied by far-reaching financial innovations. Article 41(2) TEU precludes operating expenditure arising from operations having military or defense implications from being charged to the Union budget. In light of that restriction, the European Peace Facility (EPF) was established in 2021 to finance military operations and external defense activities.¹⁸⁷ Following Russia's invasion of Ukraine, it has enabled Member States to be partially reimbursed for supplies delivered to Ukraine. Its intergovernmental nature, however, requires unanimity in decision-making, which enabled Hungary to block disbursements for more than a year.¹⁸⁸ Numerous measures have therefore been promoted outside the CSDP to strengthen the European Defence Technological and Industrial Base (EDTIB), including grants, joint procurement, and loans under SAFE.¹⁸⁹ These measures di-

¹⁸² Council Decision 2001/80/CFSP of 22 January 2001 on the establishment of the Military Staff of the European Union.

¹⁸³ Council Decision (CFSP) 2017/2315 of 11 December 2017 establishing permanent structured cooperation (PESCO) and determining the list of participating Member States.

¹⁸⁴ STEINBACH, 2025: 1641.

¹⁸⁵ Council Decision (EU) 2017/971 of 8 June 2017 determining the planning and conduct arrangements for EU non-executive military CSDP missions and amending Decisions 2010/96/CFSP on a European Union military mission to contribute to the training of Somali security forces, 2013/34/CFSP on a European Union military mission to contribute to the training of the Malian armed forces (EUTM Mali) and (CFSP) 2016/610 on a European Union CSDP military training mission in the Central African Republic (EUTM RCA). See SCHMIDT, 2025: 228.

¹⁸⁶ SCHMIDT, 2025: 237.

¹⁸⁷ Council Decision (CFSP) 2021/509 of 22 March 2021 establishing a European Peace Facility, and repealing Decision (CFSP) 2015/528. On the distinction between the sources of funding for administrative expenditure and for operations having military or defense implications, see GALÁN PABLO, 2015: 21 et seq.; and ALÍAS CANTÓN, 2018: 766.

¹⁸⁸ For a detailed account, see STEINBACH, 2025: 1643 et seq.; SCHMIDT, 2025: 230 et seq.; MOSER, 2026: 216-217.

¹⁸⁹ Regulation (EU) 2021/697 of the European Parliament and of the Council of 29 April 2021 establishing the European Defence Fund and repealing Regulation (EU) 2018/1092; Regulation (EU) 2023/1525 of the European Parliament and of the Council of 20 July 2023 on supporting ammunition production (applicable until 2025); Regulation (EU) 2023/2418 of the European Parliament and of

rectly support strategic autonomy and the resilience of defense supply chains. They also align with the European Defence Industrial Strategy and the European Defence Industry Programme. Through these measures, the Commission has established itself as an important new actor in defense¹⁹⁰—a development that directly reflects the trend toward supranationalization discussed above.

4. FORMS OF ACTION

46. The public purposes identified above—strategic autonomy, resilience, and defense—are pursued through a combination of different forms of action. As the preceding discussion has shown, none of these forms is new; what is new is their strategic orientation and the importance now attached to them. The examples below are not exhaustive but are intended to be sufficiently illustrative.

47. The primary form of action, and the prerequisite for all the others, is planning.¹⁹¹ Countless «strategies» have been drawn up at both the European and domestic levels to identify vulnerabilities, weaknesses, critical sectors, and essential services, and to design appropriate mechanisms for enhancing preparedness, a capacity closely associated with strategic autonomy, resilience, and defense.¹⁹² Alongside these strategies, the Union and the Member States are required to draw up specific plans for particular crises or emergencies.¹⁹³ Certain public and private entities are likewise

the Council of 18 October 2023 on establishing an instrument for the reinforcement of the European defence industry through common procurement (EDIRPA); and Council Regulation (EU) 2025/1106 of 27 May 2025 establishing the Security Action for Europe (SAFE) through the Reinforcement of the European Defence Industry Instrument. The legal basis relied on—Article 122 TFEU—has been challenged by the European Parliament and Hungary. MOSER, 2026: 220. The Council has also activated the national escape clause under the Stability and Growth Pact, allowing Member States that request it to increase their defense expenditure.

¹⁹⁰ MOSER, 2026: 217.

¹⁹¹ In this regard, see RODRÍGUEZ DE SANTIAGO, 2023.

¹⁹² The following may serve as examples, in addition to those cited throughout this article: Joint Communication from the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 5 March 2024, JOIN(2024) 10 final, *A New European Defence Industrial Strategy: Achieving EU Readiness Through a Responsive and Resilient European Defence Industry*: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52024JC0010>; Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 28 May 2025, COM(2025) 270 final, *The EU Startup and Scaleup Strategy: Choose Europe to Start and Scale*: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52025DC0270>; Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 22 February 2021, COM(2021) 70 final, *Action Plan on Synergies Between Civil, Defence and Space Industries*: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021DC0070>. On the concept of «preparedness,» see RIXER, 2021: 52.

¹⁹³ See, for example, in the field of health, Article 5 of Regulation (EU) 2022/2371 of the European Parliament and of the Council of 23 November 2022 on serious cross-border threats to health and repealing Decision No 1082/2013/EU.

required, by reason of their status or the nature of their activities, to plan their responses to particular circumstances or scenarios, as discussed below.

48. Despite trends toward deregulation,¹⁹⁴ regulation remains a fundamental instrument of public action, extending beyond the regulatory state and serving important constitutional values.¹⁹⁵ In the present context, regulation is used, first, to recalibrate competition law. This includes relaxing State aid rules in response to emergencies or for strategic reasons, in order to advance the Union's objectives and enhance its resilience—for example, by supporting Important Projects of Common European Interest.¹⁹⁶ Merger rules are also expected to be reformed to enhance the global competitiveness of future «European champions.» The challenge for these policies is to protect competition within the internal market while safeguarding the interests of countries with a weaker industrial base.¹⁹⁷ Various joint procurement measures and reforms of procurement rules are also being introduced, including greater use of negotiated procedures and preferences for European companies.¹⁹⁸ Member States are also being encouraged to acquire or retain holdings in certain strategic companies.¹⁹⁹

49. A further recurring feature of regulation is the imposition of specific burdens on public or private entities regarded as strategic, critical, or essential, whether because of the activities they perform or the infrastructure they operate or products they handle.²⁰⁰ These burdens are intended to enhance their resilience, safeguard their strategic autonomy, or both. Responsibility for designating the entities concerned lies with either the Union or the Member States, depending on the context—for example, with the Union in the case of critical raw materials,²⁰¹ and with the Member States in the case of critical infrastructure.²⁰² The criteria governing this designation are laid down in legislation with varying degrees of precision: formulas are established for critical raw materials,²⁰³ but not for critical infrastructure.

¹⁹⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 11 February 2025, COM(2025) 45 final, *Commission Work Programme 2025: Moving Forward Together: A Bolder, Simpler, Faster Union*: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52025DC0045>.

¹⁹⁵ On this point, see RUSCHEMEIER, 2025.

¹⁹⁶ Communication from the Commission, *Criteria for the Analysis of the Compatibility with the Internal Market of State Aid to Promote the Execution of Important Projects of Common European Interest* (2021/C 528/02).

¹⁹⁷ MIRÓ, 2023: 323. On the consolidation of the European defense market, see COLOMA, 2025: 257 et seq.

¹⁹⁸ SIEGEL, 2020: 582. Article 33 and Articles 70-77 Proposal for a Regulation on public contracts and concessions, 9.9.2026.

¹⁹⁹ ESTEBAN RÍOS, 2026: 226 et seq.

²⁰⁰ BECKER, 2024: 50. The relevant terminology includes critical entities, whether of national significance or of particular European significance, and essential services (Directive (EU) 2022/2557, footnote 160); essential or important entities (NIS 2 Directive, footnote 166); sectors and goods of critical importance (Article 3 IMERA); critical products (Article 8 of the Cyber Resilience Act, footnote 166); and strategic and critical raw materials (Article 2 of Regulation (EU) 2024/1252, footnote 49).

²⁰¹ Article 3 of Regulation (EU) 2024/1252 (footnote 49).

²⁰² Article 6 of Directive (EU) 2022/2557 (footnote 160).

²⁰³ Annex I to Regulation (EU) 2024/1252 (footnote 49).

50. The principal types of burdens imposed on private entities at the European level can be grouped as follows: planning obligations;²⁰⁴ resilience tests or simulation exercises;²⁰⁵ the management of strategic stocks;²⁰⁶ the manufacture or supply of certain products;²⁰⁷ and information-sharing requirements intended to identify vulnerabilities or anomalies in supply chains or to trigger alerts.²⁰⁸ Compensation for these burdens is available only in certain cases.²⁰⁹ It will therefore be essential to assess the suitability and proportionality of the measures imposed and, where appropriate, the avenues available for seeking compensation for any resulting loss. Some parallels may be drawn in this respect with the public service obligations imposed in regulated sectors.

51. The use of Union and Member State spending power to advance strategic autonomy, resilience, and defense is a distinctive form of action that extends beyond the regulatory and guarantor state. The regulatory state operates by shifting compliance costs to the companies and private entities subject to regulation. From this perspective, budgetary constraints do not play a significant role.²¹⁰ The pursuit of the new public purposes, by contrast, requires the pooling of Member States' spending capacity and support for private investment.²¹¹ A notable example is the NextGenerationEU program, which goes beyond a mere crisis instrument and has had a substantial, albeit uneven, impact across the Member States.²¹² Further examples include the various funds discussed above, notwithstanding their differing scope. Another is the coordinated activation by eighteen Member States of the national escape clause under the Stability and Growth Pact to finance defense expenditure. The use of conditional funding and public procurement as incentives may be explained by the limits on the Union's competence to act through other means.²¹³ These mechanisms nevertheless provide an effective means of addressing fragmentation in

²⁰⁴ Article 10 IMERA (footnote 48).

²⁰⁵ Article 1(1) of Regulation (EU) 2022/2554 (DORA); Article 12 IMERA; Article 33 of the Cyber Resilience Act; and Article 24 of Regulation (EU) 2024/1252.

²⁰⁶ See, for example, Article 24 of Regulation (EU) 2024/1252. For a detailed discussion, see ESTEBAN RÍOS, 2026: 242 et seq.

²⁰⁷ See, for example, measures adopted at the Commission's request (Article 29 IMERA, footnote 48); and Article 10 of the Medical Countermeasures Regulation (footnote 156).

²⁰⁸ See, for example, Article 7 IMERA (footnote 48); Article 16 of the Cyber Resilience Act (footnote 166); and Articles 12, 23, and 28–30 of the NIS 2 Directive (footnote 166).

²⁰⁹ This is the case for critical entities (Article 10 of Directive (EU) 2022/2557).

²¹⁰ MAJONE, 1994: 87.

²¹¹ DRAGHI, 2025: 8, 63 et seq.

²¹² The foundations of the program were set out in the Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions of 27 May 2020, COM(2020) 456 final, *Europe's Moment: Repair and Prepare for the Next Generation*: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0456>. On the importance of the program, see RUFFERT and LEINOSANDBERG, 2022. On its impact on the distribution of power at both the European and national levels, with particular reference to Spain, see DÍEZ SASTRE and MARCO PEÑAS, 2024.

²¹³ MÜLLER, 2021: 124. STEINBACH, 2025: 1660.

security, defense, and crisis response.²¹⁴ Their effectiveness does, however, depend on the Union's ability to safeguard its financial and monetary autonomy.²¹⁵

52. Alongside the forms of action described above, the pursuit of strategic autonomy, resilience, and defense is particularly evident in the use of administrative intervention and police-power measures intended to prevent foreign influence. Foreign direct investments may be screened and, where appropriate, prohibited on grounds of security or public order, particularly where the investor is a state-owned enterprise from a third country.²¹⁶ Authorities may also block acquisitions of European companies or bids submitted in public procurement procedures where they are supported by foreign subsidies liable to distort the internal market.²¹⁷ Contracts in certain strategic sectors may be reserved for European companies,²¹⁸ while response measures—including sanctions—may be adopted in cases of economic coercion by a third country.²¹⁹ These measures seek to reduce vulnerability to potential foreign threats.²²⁰

53. These measures are directly aligned with the trends toward geopoliticization and securitization.²²¹ They have been criticized in the literature for moving away from the soft-power instruments that have traditionally characterized the Union and are consistent with its founding values.²²² Attention has also been drawn to the tension they create with the commitment to an open market that has hitherto defined the Union.²²³ This raises questions about the continuing usefulness of traditional concepts such as protectionism.²²⁴ The distinctive features of the present context—

²¹⁴ With regard to defense, see *ibid.*: 1639.

²¹⁵ For a detailed discussion of this issue and of the measures associated with such autonomy, including the internationalization of the euro and the strengthening of the European Investment Bank (EIB), see MIRÓ, 2023: 326–328. On solidarity among the Member States following the pandemic, see MARCO PEÑAS, 2021: 364 *et seq.*

²¹⁶ Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union. In Spain, for example, concerns have been raised about the construction of a Chinese vehicle manufacturing plant because of its proximity to the Ferrol naval base (GONZÁLEZ, 2026). In the literature, see HILDELANG and MOBERG, 2020: 1429–1430, 1434.

²¹⁷ Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market; and Regulation (EU) 2022/1031 of the European Parliament and of the Council of 23 June 2022 on the access of third-country economic operators, goods and services to the Union's public procurement and concession markets and procedures supporting negotiations on access of Union economic operators, goods and services to the public procurement and concession markets of third countries (International Procurement Instrument—IPI).

²¹⁸ MOSER, 2026: 221.

²¹⁹ Regulation (EU) 2023/2675 of the European Parliament and of the Council of 22 November 2023 on the protection of the Union and its Member States from economic coercion by third countries. On this point, see MIRÓ, 2023: 324.

²²⁰ REKOWSKI, 2025: 257.

²²¹ MIRÓ, 2023: 323.

²²² For a detailed discussion, see GOVAERE, 2026: 142–143.

²²³ DOUGAN and HILLION, 2026: 65.

²²⁴ The concept does appear to be used in Spanish administrative-law scholarship to describe contemporary changes in European law: PINTOS SANTIAGO, 2022: 237–241. ESTEBAN RÍOS, 2026:

the climate emergency, new forms of communication, and an intense process of Europeanization²²⁵— may render the concept of protectionism, and related notions such as deglobalization, somewhat outdated. From an economic perspective, integration appears to be advancing, but it is increasingly structured around geopolitical considerations. This has been described as «conflictual integration.»²²⁶

54. The final form of action is strengthened cooperation through strategic partnerships in pursuit of these purposes²²⁷—without prejudice to the Union's enlargement policy, which also forms part of its strategic approach.²²⁸ Such partnerships should be promoted in key areas such as energy resources, critical raw materials, semiconductors, vaccines, migration, and counterterrorism.²²⁹ To this end, the position of Chief Trade Enforcement Officer was created in 2021.²³⁰ Establishing strategic partnerships creates the challenge of preserving the Union's credibility in promoting European values. The literature advocates openness to relations with states that espouse different values («rival partners») in order to create strategic economic interdependencies.²³¹ It is difficult to determine where the limit to this endeavor lies. Whatever that limit may be, it has plainly been exceeded in some cases.²³²

5. GOVERNANCE

55. The Union and the Member States must now make strategic decisions amid turbulence and considerable uncertainty, while their ability to decide autonomously, free from foreign influence or pressure, is itself at risk.²³³ They must also ensure that they retain the capacity to act under all circumstances and at all times.²³⁴ These conditions go beyond those contemplated by the regulatory and guarantor state, a model characterized by decision-making involving a high degree of discretion.²³⁵ Governance structures must adapt accordingly. The concern here is not the creation of specific ad hoc structures in different fields, but the identification of certain

362, argues that the use of new terminology and new forms of action does not preclude characterizing these developments as protectionism.

²²⁵ DI FABIO, 2019: 257-258.

²²⁶ MIRÓ, 2023: 319.

²²⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 18 February 2021, COM(2021) 66 final, *Trade Policy Review—An Open, Sustainable and Assertive Trade Policy*: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021DC0066>.

²²⁸ DOUGAN and HILLION, 2026: 65-66.

²²⁹ REKOWSKI, 2025: 261.

²³⁰ MIRÓ, 2023: 325.

²³¹ On this point, see LETTA, 2024: 136; GOVAERE, 2026: 144.

²³² On the dialogue between the Union and the Taliban regime, see DEIROS BRONTE, 2026.

²³³ BEHNKE and ECKHARD, 2022: 4, 8.

²³⁴ NIINISTÖ, 2024: 16.

²³⁵ MAJONE, 1994: 89.

guiding principles that characterize—or should characterize—governance directed toward the purposes discussed above.

56. Scholars of risk law have examined the problems arising from uncertainty in public decision-making, including in relation to low-probability, high-impact events («black swans»).

²³⁶ Their analytical frameworks may be highly valuable in the present context, but they must be adapted to the processes of geopoliticization and securitization. This requires a focus on anticipatory capacity and a plurality of forms of action.²³⁷ The ultimate purpose is to ensure autonomous decision-making governed by law and guided by European values.²³⁸ This means that decisions must remain subject to judicial review at all times and under all circumstances.²³⁹ Achieving these aims requires stronger cooperation among the Member States and enhanced Union capabilities. Member States must also strengthen their administrative and judicial structures by introducing redundancy or duplication and improving interconnectivity.

57. Both bureaucracy and the courts are threatened by narratives emphasizing the benefits of deregulation and advances in artificial intelligence.²⁴⁰ Yet both are essential to the resilience of the democratic state governed by the rule of law and, together, provide the only means of ensuring a rapid and effective response in times of crisis.²⁴¹ Their structures should therefore be strengthened. From this perspective, organizational redundancy is essential to ensure the continued operation of the public administration and the judiciary, their capacity to respond rapidly, and the availability of backup capacity in the event of failure. This requires abandoning the economic dogma of resource optimization, which creates fragility.²⁴² From the perspective of administrative organization, this approach represents a genuine paradigm shift.²⁴³

58. Finally, it must be borne in mind that, in exceptional circumstances, administrative authority tends to be concentrated at the central or federal levels, which ordinarily have greater resources at their disposal. Decentralized structures are perceived as an obstacle.²⁴⁴ Interconnectivity among the different levels of government,

²³⁶ See, in this regard, Sunstein's analysis of the precautionary principle and the maximin principle, SUNSTEIN, 2021: 43 et seq.

²³⁷ On the inadequacy of conventional approaches to risk in the contemporary context of major catastrophes, see STEINMÜLLER and GERHOLD, 2021: 33; KLAFKI, 2025: 1002.

²³⁸ For a particularly vivid account, see GÄRDITZ, 2024: 408.

²³⁹ RIXER, 2021: 59-60. On the need to adopt ad hoc rules governing alternates and substitutions, see BARCZAK, 2020: 614. On judicial review in exceptional circumstances, see WOLFF and DÄHNE, 2026: 521 et seq.

²⁴⁰ RUSCHEMEIER: 2025; AZOULAI, 2026: 9.

²⁴¹ BEHNKE and ECKHARD, 2022: 9; GÄRDITZ, 2024: 410. These conclusions are drawn from a multi-case study by SEIBEL *et al.* (2022: 124) of the German administration's response to the 2015–2016 refugee crisis.

²⁴² For a detailed discussion of the different types of redundancy, see TALEB, 2022: 312.

²⁴³ KLAFKI, 2025: 1003; ZURSTRASSEN, 2025: 2.

²⁴⁴ See RIXER, 2021: 56; BECKER, 2024: 51-52.

however, facilitates closer cooperation with society and the collection of more accurate information for decision-making. The emergence of digital tools, such as data spaces, may facilitate administrative interconnectivity. Similarly, the capacity for cross-cutting administrative action must be ensured by strengthening operational coordination across departments and sectors.²⁴⁵

59. Public-private cooperation is another key element of governance, since it enables the joint learning needed to build resilience throughout the community, in both the state and society.²⁴⁶ Tools for sharing information and coordinating action may be highly valuable in this regard. The development of joint military capabilities among the Member States, as discussed above, is also essential. Finally, another key component of contemporary governance is effective coordination between the civilian and military administrations.²⁴⁷

60. Expert knowledge assumes particular importance in both public-private and civil-military cooperation. The regulatory and guarantor state and risk law had already recognized its importance in determining the current state of scientific and expert knowledge.²⁴⁸ Under the regulatory-state model, specialization is ensured through the creation of independent specialized agencies empowered to adopt rules and ensure their enforcement.²⁴⁹ At the European level, it is now considered necessary to improve the structures responsible for analyzing and assessing vulnerabilities and for managing crises.²⁵⁰ These structures often operate at the intersection of civilian and military cooperation, where they must remain free from external influence or interference.

61. The Joint Research Centre has produced numerous studies relating to the Union's strategic purposes, including strategic dependencies, water resilience, and digital sovereignty.²⁵¹ In 2017, the European Centre of Excellence for Countering Hybrid Threats (Hybrid CoE) was established at Finland's initiative, strengthening cooperation between the Union and NATO.²⁵² The former European Political Strategy Centre, now known as I.D.E.A. (*Inspire, Debate, Engage and Accelerate Action*), serves as the Commission President's in-house advisory service, particularly on strategic matters. Along similar lines, the new Directorate-General for Defence Industry and Space (DG DEFIS) draws on expert units such as the EU Observatory of Critical Technologies, established in 2021 to enhance synergies among the civilian, defense, and space sectors. The Observatory produces classified reports that inform the Commission's decision-making. Its expert groups may include only representa-

²⁴⁵ NIINISTÖ, 2024: 18.

²⁴⁶ PAQUET, 1995: 260.

²⁴⁷ NIINISTÖ, 2024: 18, 21.

²⁴⁸ LADEUR, 2009: 167; CIERCO SEIRA and SALAS RÍOS, 2023: 40; similarly, BEHNKE and ECKHARD, 2022: 8.

²⁴⁹ MAJONE, 1994: 81; LEVI-FAUR, 2023: 1463.

²⁵⁰ NIINISTÖ, 2024: 20.

²⁵¹ REKOWSKI, 2025: 258. The latest publications are available at: https://publications.jrc.ec.europa.eu/repository/home?pk_source=website&pk_medium=link&pk_campaign=SH_HP

²⁵² Further information is available at: <https://www.hybridcoe.fi>

tives of entities established in the Union and not controlled by entities from outside the Union.²⁵³

62. As regards direct civil-military cooperation, the Joint Support Coordination Cell (JSCC) was established in 2019. It brings together civilian and military expertise and supports coordination between the MPCC and the Civilian Planning and Conduct Capability (CPCC) in the planning and conduct of CSDP missions.²⁵⁴ The EU Intelligence and Situation Centre (EU INTCEN) is likewise part of the European External Action Service and reports directly to the High Representative of the Union for Foreign Affairs and Security Policy. It facilitates the fusion of intelligence gathered by the Member States. The EU Hybrid Fusion Cell, which specializes in the analysis of hybrid threats, was established within EU INTCEN.

6. CONCEPT

63. The discussion thus far has pursued two objectives. The first has been to show the limitations of the widely accepted model of the regulatory and guarantor state in accounting for many of the transformations that have reshaped the Union and the Member States in recent years. The second has been to set out the context and legal materials underpinning the model proposed here (the «strategic state»). On this basis, the discussion below defines the concept of the strategic state, explains the choice of term, and delineates its scope.²⁵⁵ Before proceeding, two brief methodological observations are in order.

64. Forms or models of the state are not ordinarily developed through an inductive process. Their function is primarily heuristic and, consequently, they operate at a very high level of abstraction. Models of the state therefore tend to originate in intuitions. This does not preclude some models from evolving over time into established types of state (*Staatstypen*). This occurs when they undergo lengthy processes of abstraction and ultimately become embedded in legal doctrine as constitutional maxims or principles.²⁵⁶ This article merely proposes a model of the state. Yet the extensive juridification of the transformations it describes may soon provide a basis for its gradual development into a type of state.

65. The emergence of a new model of the state does not ordinarily displace its predecessors. Although the new model may attract greater attention, the others do not necessarily disappear.²⁵⁷ Each performs a different function, and they may therefore sometimes overlap, applying simultaneously to an increasingly multifaceted state. The strategic state is intended only to highlight the emergence of a new strate-

²⁵³ REKOWSKI, 2025: 260.

²⁵⁴ See MOSER, 2019.

²⁵⁵ DÍEZ SASTRE, 2018: 48 et seq.

²⁵⁶ On the distinction between models of the state (*Staatsbild*) and types of state (*Staatstyp*), in the Weberian sense of an ideal type, see VOßKUHL, 2001: 507–508.

²⁵⁷ This idea is developed by LEVI-FAUR, 2023: 1463–1465.

gic dimension or layer in the responsibilities of the Union and the Member States,²⁵⁸ one that permeates and partly transforms the responsibilities they already discharge under the state governed by the rule of law, the social state, and the regulatory and guarantor state. The new model thus seeks to open new avenues of research and identify explanatory frameworks for the analysis of European integration, EU law, and national law.

6.1. Definition

66. As noted above, models of the state are not ordinarily developed through an inductive process. It is therefore appropriate to begin by defining this model *per genus proximum et differentiam specificam*.²⁵⁹ This requires identifying its similarities to, and differences from, existing models of the state in order to demonstrate its necessity and usefulness. Several models developed in European political theory and public-law scholarship have been selected because they seek to capture transformations affecting the Union and the Member States that are associated primarily—though not always exclusively—with geopoliticization and securitization. These are the «regulatory security state»,²⁶⁰ the «risk state»,²⁶¹ the «public interest state»,²⁶² the «savior state» (*stato salvatore*),²⁶³ and the «nervous state» (*nervöser Staat*).²⁶⁴ The concept of the «strategic state», developed decades ago in Anglophone political science scholarship, is also examined.

67. The «regulatory security state» operates at the European level through regulation across different dimensions of security. In constructing the concept, the emphasis is placed on two forms of action: regulation, characteristic of the regulatory state, and coercive measures involving the use of force to address security problems of any kind, characteristic of the security state.²⁶⁵ The principal objection to this model is that it assumes that current transformations can still be explained by combining the regulatory-state and security-state models. Regulation undoubtedly remains an important form of action, but other highly consequential forms—such as planning, spending power, and strategic partnerships—also play a central role and cannot readily be linked to either the guarantor state or the security state. At the same time, the idea of security does not clearly convey the cross-cutting nature of the measures being introduced into EU and national law.

²⁵⁸ On this tendency toward the superimposition of layers (*layering*), rather than fundamental transformations, see ZURSTRASSEN, 2025: 3.

²⁵⁹ On this point, see DÍEZ SASTRE, 2018: 175 et seq.

²⁶⁰ This model is proposed by KRUCK and WEISS, 2023: 1206.

²⁶¹ LEVI-FAUR, 2023: 1459, 1468.

²⁶² GARRARD, 2022: 189 et seq.

²⁶³ NAPOLITANO, 2008.

²⁶⁴ BARCZAK, 2021.

²⁶⁵ KRUCK and WEISS, 2023: 1206, 1211, 1215.

68. The «risk state» is proposed as an alternative to the regulatory security state. The model recognizes a broader range of forms of action than those associated with the regulatory state, highlighting instruments such as taxation and public spending. As for its name, it proceeds from the premise that risk management is an essential function of the state within which security can be subsumed.²⁶⁶ Like the strategic state proposed here, the risk state transcends the regulatory state, although it does not provide a sufficiently comprehensive account of the diversity of contemporary forms of action. The strongest objection to this model, however, concerns the powerful connotations that risk carries in political and legal discourse. The concept of the «risk society» (*Risikogesellschaft*) arose in a specific context of industrial and technological development and undoubtedly remains highly relevant—particularly in relation to artificial intelligence.²⁶⁷ In this respect, it overlaps with many of the issues discussed here, including anticipation and the importance of experts. It does not, however, adequately capture the underlying conditions, purposes, and forms of action of the new model of the state proposed here.²⁶⁸

69. The concept of the «savior state» (*stato salvatore*) focuses on the role played by the state during the Great Recession of 2008 as an active rescuer of the financial system and certain private entities. It also extends to the post-pandemic recovery phase. This model highlights changes in EU competition law and in the forms of action available to states through various legal and financial instruments. To that extent, it shares significant common ground with the strategic state model, but proceeds from different underlying conditions and focuses on different purposes.²⁶⁹

70. The idea of the «nervous state» (*nervöser Staat*), for its part, refers to the political and legal transformations that have occurred in the European context, particularly since the September 11 terrorist attacks. This model moves beyond the Schmittian conception of the state of exception and instead posits an anticipated state of exception (*antizipierter Ausnahmestand*), embedded in the legal order so as to generate resilient law.²⁷⁰ The model substantially overlaps with the strategic state proposed here. It does not, however, encompass purposes such as strategic autonomy and community resilience, nor does it extend to the analysis of forms of action such as planning, regulation, spending power, and strategic partnerships.

71. Finally, the concept of the «public interest state» emerged in Anglophone scholarship in connection with the return of the state. It focuses on rebalancing the public and private sectors following an intense period of neoliberalism, with a view to promoting the common good within a democratic framework.²⁷¹ Like the other models considered above, it captures some of the transformations that this article

²⁶⁶ LEVI-FAUR, 2023: 1459, 1468.

²⁶⁷ On this point, see the classic work by BECK, 1986.

²⁶⁸ Some of these risks are reflected in the concept of a *Weltrisikogesellschaft*, BECK, 2011.

²⁶⁹ For a detailed discussion, see NAPOLITANO, 2008.

²⁷⁰ BARCZAK, 2021.

²⁷¹ GARRARD, 2022: 189 et seq.

seeks to highlight. The ideas of the common good and the public interest, however, are very broad. They lack the specificity needed to bring particular changes in the contemporary state into focus.

72. Having considered the various models of the state that share features with the model proposed here, attention must now turn to the concept of the «strategic state» itself. The term appeared several decades ago in public administration scholarship to describe techniques of strategic economic planning—in the Soviet Union during the 1920s, in the American New Deal during the 1930s, and in the literature on economic planning during the 1960s. The same term has also been applied to a model of the state that emerged in response to neoliberal policies and the New Public Management reforms of the 1980s and sought to restore the steering capacity of democratic governments.²⁷²

73. Within this second strand of scholarship, Gilles Paquet coined the concept of the «strategic state» in the 1990s as a third way—an alternative to both the neoliberal and Keynesian states—in response to the crisis of the Canadian state. In a context characterized by globalization, the dissolution of traditional social structures, and declining public trust in government institutions, the strategic state model sought to emphasize the need to safeguard the steering capacity of public authorities through planning that sets long-term objectives.²⁷³ His proposal falls within the field of political economy. It subsequently influenced OECD policymaking and inspired specific reforms in the United Kingdom and Scotland during the first decade of the twenty-first century.²⁷⁴

74. Under this model, the ultimate function of the state is to ensure security and prosperity and to preserve its social model.²⁷⁵ To that end, it must promote resilience, understood as the capacity to recover without sustaining damage after being subjected to stress or experiencing a shock.²⁷⁶ This requires the state to think in the long term, develop strategic capabilities, and achieve strategic alignment among the different levels of government and private actors.²⁷⁷ More specifically, the state must be capable of anticipating challenges and formulating strategies to address them that can be implemented flexibly.²⁷⁸ The state, the market, and society must therefore work closely together to ensure their resilience and their capacity for collective learning.²⁷⁹

75. The strategic state model proposed here adapts the concept described above to the European context and to a new world order. It rests on the underlying conditions, purposes, forms of action, and governance structures examined above

²⁷² For a detailed discussion of the use of the term, see ELLIOTT and ROBERTS, 2025: 559.

²⁷³ PAQUET, 1995: 257-258 and 1997: 29, 33; ELLIOTT and ROBERTS, 2025: 560.

²⁷⁴ See, in this regard, the report prepared by PAQUET, 2001, for the OECD. On policies in the United Kingdom and Scotland, see ELLIOTT and ROBERTS, 2025: 560-561.

²⁷⁵ *Ibid.*: 562.

²⁷⁶ PAQUET, 1995: 259.

²⁷⁷ ELLIOTT and ROBERTS, 2025: 561.

²⁷⁸ DOZ and KOSONEN, 2014: 4; ELLIOTT and ROBERTS, 2025: 562.

²⁷⁹ PAQUET, 1995: 259.

and applies to both the Union and the Member States. Unlike the existing concept, which proposes a model of the state, the concept of the strategic state used here seeks to describe a reality that has already emerged. It may be defined as follows:

The strategic state is a model of the state capable of acting strategically—anticipating, mobilizing, and deploying all the resources at its disposal, whether public or private, civilian or military—to confront existential threats, preserve the values of the social and democratic state governed by the rule of law, and safeguard its capacity for autonomous action, free from external pressure.

6.2. Term

76. It is now necessary to justify the adjective chosen for the proposed model of the state, which also forms part of its definition. In recent years, the adjective «strategic» has become markedly overused—indeed, almost ubiquitous. It is a highly familiar and resonant term that is used in widely differing senses.²⁸⁰ For present purposes, two principal meanings must be distinguished.

77. The first is rooted in the term's etymology. In Greek, the *stratēgós* (στρατηγός) was a military commander. Accordingly, the adjective strategic originally referred to a military commander's capacity to command or act. The word passed from Greek into Latin, which explains its presence in numerous modern languages.²⁸¹ A state is strategic when it mobilizes its forces for a decisive battle.²⁸² This idea may be understood in a strict, military sense. One example is the widely used concept of «strategic culture,» which refers to a state's identity in matters of defense and security.²⁸³ In this sense, the strategic dimension relates to the origin of threats and, ultimately, to the capacity to use force.²⁸⁴ It is in this vein that the Niinistö Report refers to the Union's «strategic responsibility.»²⁸⁵ The same meaning may also be used figuratively, however, when economic, industrial, political, or social resources are mobilized to confront existential threats of any kind. In this sense, the designation of entities, products, areas, or infrastructure as strategic reflects an intersection between economic significance and national security in a context of international rivalry. This intersection requires a sophisticated theoretical framework to guide public decision-making.²⁸⁶

78. The second meaning of the adjective *strategic* emerged when the concept was transferred from the military sphere to business organizations in the 1960s and,

²⁸⁰ MILEVSKI, 2023: 721.

²⁸¹ See «strategic, adj. & n.», *Oxford English Dictionary*, including its etymology.

²⁸² On this meaning of *strategy* and *strategic*, see FREEDMAN, 2017: 92.

²⁸³ On the development of the concept, from its introduction by Jack Snyder in the 1970s in connection with the nuclear strategies of the United States and the Soviet Union to the present day, see BIEL *et al.*, 2013: 7, 9.

²⁸⁴ MILEVSKI, 2023: 721; KHALIL, 2025: 2062.

²⁸⁵ NIINISTÖ, 2024: 11, 14.

²⁸⁶ See DING and DAFOE, 2021: 184 et seq.; REKOWSKI, 2025: 258.

subsequently, to public-sector organizations through New Public Management in the 1980s.²⁸⁷ It refers to the capacity for comprehensive planning to address medium- or long-term challenges. In this sense, the strategic component involves anticipating problems in a complex environment and having the operational capacity to respond.²⁸⁸

79. The concept of the «strategic state» proposed here combines these two meanings. It refers to a state oriented toward protecting national security [§ 18] through a range of policies and actions, and capable of preparing, planning, and responding to long-term problems. The ability of the adjective *strategic* to bring these two perspectives together makes it particularly well suited to the model of the state now emerging at the European level. It captures this reality more fully and conveys the action required of the state more precisely than alternative labels referring only to security, risk, or nervousness, as discussed above. Moreover, as already noted, the adjective *strategic* is both resonant and familiar, thereby facilitating interdisciplinary dialogue.²⁸⁹

6.3. Scope

80. The final component in the formation of the concept of the strategic state is its scope—that is, the object or phenomenon to which it refers. As noted above, the new model of the state is proposed to capture transformations occurring at the European level. The reality and legal materials on which the concept of the strategic state rests are European. This does not, however, preclude its application in other regions, subject to whatever adjustments may be appropriate. The model also applies to both the Union and the Member States. The Union is plainly not a state. Yet its characterization inevitably draws on certain models of the state—as was the case with the regulatory and guarantor state—because much of the impetus for transforming the Member States originates at the European level. Indeed, the functions and purposes of the Union are commonly understood in terms derived from the state.²⁹⁰

81. The strategic state model extends beyond the Union—whose integration is deepening further in this context—to the Member States themselves. Against the backdrop of geopoliticization and securitization described above, states acting alone are losing power and influence internationally.²⁹¹ They pool their sovereignty and

²⁸⁷ CASTELLANOS NARCISO and CRUZ PULIDO, 2014 (unpaginated online version); BRYSON, 2004.

²⁸⁸ DOZ and KOSONEN, 2014: 6, 10. See also “strategic, adj. & n.,” *Oxford English Dictionary*, sense 2: «Of, relating to, or characterized by the identification of long-term or overall aims and interests and the means of achieving them; designed, planned, or conceived to serve a particular purpose or achieve a particular objective.»

²⁸⁹ DÍEZ SASTRE, 2018: 193.

²⁹⁰ VOßKUHL, 2001: 497. For a critical discussion of this «state-centered imprint» on the development of European administrative law, see BRITO BASTOS, 2023.

²⁹¹ STEINBACH, 2025: 1667.

cooperate to safeguard their independence and prevent fragmentation.²⁹² Previous crises have demonstrated the advantages of cooperation at the European level. Opinion polls also reveal strong public support across Europe for integration, particularly in the field of defense, which has traditionally been reserved to the Member States.²⁹³ Nevertheless, a clear tendency toward national responses persists in matters of sovereignty, territorial integrity, and defense.²⁹⁴ The differing priorities of the Member States result in an uneven distribution of burdens—primarily defense in the east²⁹⁵ and migration in the south—as well as an erosion of mutual trust on issues such as immigration, climate change, democracy, the treatment of minorities, and international conflicts.²⁹⁶

82. The magnitude and scale of the strategic state's objectives often require action by the Union. It remains to be seen, however, whether the political momentum and the existing primary-law foundations will be sufficient to counterbalance the power of the Member States. The strategic state prepares to confront external threats, but a struggle among liberal democracy, illiberal democracy, and authoritarianism is also unfolding within many countries.²⁹⁷ The inability of the Union and the Member States to secure well-being and respond effectively to crises drives societies toward authoritarianism and endangers the social and democratic state governed by the rule of law.²⁹⁸ In that struggle, the law itself must be resilient, and lawyers have an important role to play.²⁹⁹

7. BIBLIOGRAPHY

Johan ADRIAENSEN, Sophie VANHOONACKER and Igor SARKISSIAN, «The effect of geopolitisation on the EU's polity: exploring institutional power shifts,» *Journal of European Public Policy*, 2025, pp. 1-25. DOI: <https://doi.org/10.1080/13501763.2025.2536546>

Manuel ALÍAS CANTÓN, «Financiación de las Operaciones de Mantenimiento de la Paz (OMP),» *Revista General de Marina*, vol. 275, November, 2018, pp. 757-775. Available online: <https://armada.defensa.gob.es/archivo/rgm/2018/11/rgm1118cap09.pdf>

Jean-Bernard AUBY, «Los retos a los que se enfrentan los Derechos administrativos,» *Revista Catalana de Dret Públic*, no. 67, 2023, pp. 4-17.

²⁹² LEVI-FAUR, 2023: 1465; SARMIENTO, 2026: 277.

²⁹³ MOSER, 2026: 214.

²⁹⁴ DOUGAN and HILLION, 2026: 68.

²⁹⁵ MIRÓ, 2023: 330; STEINBACH, 2025: 1638.

²⁹⁶ AZOULAI, 2026: 9; on the failure to act in relation to Gaza, see SARMIENTO, 2026: 280; on Italy's suspension of Schengen arrangements with Spain following the serious incident at the Spanish-Moroccan border in Ceuta on July 30, 2026, see STANLEY-BECKER, 2026.

²⁹⁷ ELLIOTT and ROBERTS, 2025: 565; SCHMIDT, 2025: 223; ROSAS, 2026: 265. The now widespread concept of «illiberal democracy» was coined at an early stage by ZAKARIA, 1997.

²⁹⁸ On the resilience of the rule of law in the face of extremism and radicalism in Germany, see GÄRDITZ, 2024: 408; see also KLAFKI, 2025: 1004.

²⁹⁹ ISENSEE, 2016: 34; SARI, 2020a: 859; BARCZAK, 2020: 612-613; MONTEDURO, 2023: 80 et seq.; GÄRDITZ, 2024: 407; AZOULAI, 2026: 12, 13, 18; MOSER: 2026: 222.

- Zubin AUSTIN and Aly HÁJLI, «Regulation of Wicked Problems: Opportunities, Responsibilities and Threats,» *Journal of Medical Regulation*, no. 109(3), 2023, pp. 6-11. DOI: <https://doi.org/10.30770/2572-1852-109.3.6>
- Loïc AZOULAI (editorial comments), «Europe is trembling. Looking for a safe space in EU law,» *Common Market Law Review*, no. 57, 2020, pp. 1675-1688. DOI: <https://doi.org/10.54648/cola2020764>
- «EU law as a resilient and resisting concept,» *Common Market Law Review*, no. 63, 2026, pp. 5-18. DOI: <https://doi.org/10.54648/cola2026003>
- Miguel AZPITARTE SÁNCHEZ, «La defensa política de los valores constitucionales,» *ReDCE*, no. 37, 2022 (online): https://www.ugr.es/%7Eredce/REDCE37/articulos/02_AZPITARTE.htm
- Mieke BAL, *Travelling Concepts in the Humanities: a Rough Guide*, University of Toronto Press, Toronto, 2002.
- Tristan BARCZAK, *Der nervöse Staat, Ausnahmezustand und Resilienz des Rechts in der Sicherungsgesellschaft*, Mohr Siebeck, Tübingen, 2020.
- *Bedingt abwehrbereit – Ist unsere Rechtsordnung auf die Abwehr äußerer Bedrohungen ausreichend vorbereitet?*, Verhandlungen des 75. Deutschen Juristentages, Erfurt 2026, Band I, C.H. Beck, München, 2026.
- Ulrich BECK, *Risikogesellschaft. Auf dem Weg in eine andere Moderne*, Suhrkamp SV, Frankfurt a. M., 1986.
- *Weltrisikogesellschaft: Auf der Suche nach der verlorenen Sicherheit*, Suhrkamp, Frankfurt a. M., 2011.
- Florian BECKER, «Bewältigung zukünftiger Krisen. Welche kompetenz- und organisationsrechtlichen Rahmenbedingungen werden benötigt, um effizient und effektiv zu reagieren,» *NJW*, 2024, pp. 50-53.
- Natahlie BEHNKE and Steffen ECKHARD, «A systemic perspective on crisis management and resilience in Germany,» *der moderne staat – Zeitschrift für Public Policy, Recht und Management*, no. 15, 2022, pp. 3-19.
- Heiko BIEL, Bastian GIEGERICH and Alexandra JONAS, «Introduction,» in Heiko BIEL, Bastian GIEGERICH and Alexandra JONAS (eds.), *Strategic Cultures in Europe. Security and Defence Policies Across the Continent*, Springer VS, Potsdam, 2013, pp. 7-17.
- Irene BLÁZQUEZ NAVARRO, «Tecnología y geopolítica: sobre una teoría del cambio en las relaciones internacionales,» *ICE, Revista de Economía*, no. 935, 2024, pp. 135-150. DOI: <https://doi.org/10.32796/ice.2024.935.7797>
- Steven BLOCKMANS, «The EU's modular approach to defence integration: an inclusive, ambitious and legally binding PESCO?,» *Common Market Law Review*, no. 55, 2018, pp. 1785-1826. DOI: <https://doi.org/10.54648/cola2018145>
- Barbara BOSCHETTI, «Diritto e resilienza (transformativa). Coordinate per un diritto capace di transizioni,» *Forum di Quaderni Costituzionali*, no. 3, 2023, pp. 208-222. Available online: www.forumcostituzionale.it
- Filipe BRITO BASTOS, «Metodología doctrinal en el Derecho Administrativo de la Unión Europea: reaccionar frente a la «impronta estatal»,» *Revista de Derecho Público: Teoría y Método*, no. 8, 2023, pp. 7-69. DOI: https://doi.org/10.37417/RDP/vol_8_2023_1953
- John M. BRYSON, *Strategic Planning for Public and Nonprofit Organizations: A Guide to Strengthening and Sustaining Organizational Achievement*, 3rd ed., Jossey-Bass Inc., U.S., 2004.
- Martin BURGI, *Funktionale Privatisierung und Verwaltungshilfe. Staatsaufgabendogmatik – Phänomenologie – Verfassungsrecht*, Mohr Siebeck, Tübingen, 1999.
- David CADIER, «The Geopoliticisation of the EU's Eastern Partnership,» *Geopolitics*, no. 24(1), 2019, pp. 71-99. DOI: <https://doi.org/10.1080/14650045.2018.1477754>
- Daniel CALLEJA and Daniele BIANCHI, «Conclusions: Shaping the Sovereignty of a Geopolitical Europe,» in European Commission: Legal Service, *Exploring the New Frontiers of EU Law*, European Union, 2026, pp. 423-465. Available online: <https://data.europa.eu/doi/10.2880/2469536>
- James A. CAPORASO, «The European Union and Forms of State: Westphalian, Regulatory or Post-Modern?,» *Journal of Common Market Studies*, no. 34:1, 1996, pp. 29-52. DOI: <https://doi.org/10.1111/j.1468-5965.1996.tb00559.x>

- Sabino CASSESE, «El surgimiento y el desarrollo del Estado administrativo en Europa,» in Armin VON BOGDANDY and Oriol MIR, *El Derecho administrativo en el espacio jurídico europeo*, Tirant lo Blanch, Valencia, 2013, pp. 25-57.
- José Ever CASTELLANOS NARCISO and Mauricio A. CRUZ PULIDO, «Una Mirada a la Evolución Histórica de la Estrategia Organizacional,» *REAL (Revista de Estudios Avanzados de Liderazgo)*, no. 3(1), 2014 (versión digital sin paginar). Available online: <https://www.regent.edu/journal/real-revista-de-estudios-avanzados-de-liderazgo/estrategia-organizacional/>
- César CIERCO SEIRA and Mercè SALAS RÍOS, «Las reservas de material sanitario estratégico. Reflexiones legales y económicas,» *Revista de Derecho y Genoma Humano*, no. 59, 2023, pp. 15-51. DOI: <https://doi.org/10.14679/3192>
- Gabriel COLOMA, «Financiación de la industria de defensa en el ecosistema europeo: de tema tabú a elemento vertebrador de la vida comunitaria,» in Alberto PALOMAR OLMEDA and Ángel DE ÁLVARO MONTERO (dirs.), Rafael MORENO IZQUIERDO (coord.), *Régimen jurídico de la industria al servicio de la Defensa. La problemática comunitaria y estatal de la contratación de bienes y servicios*, 2nd ed., Aranzadi, Las Rozas, 2025, pp. 231-266.
- Benjamin DABLER and Moritz WEISS, «Beyond the European Army Illusion: A Prudent Strategy for the Real European Zeitenwende,» *Journal of Common Market Studies*, no. 64(3), 2026, pp. 1272-1284. DOI: <https://doi.org/10.1111/jcms.70029>
- Trinidad DEIROS BRONTE, «Las afganas resisten solas tras cinco años de terror talibán: »Guardar silencio representaría aceptar la injusticia,» *El País*, 9 August 2026: <https://elpais.com/internacional/2026-08-09/las-afganas-resisten-solas-tras-cinco-anos-de-terror-taliban-guardar-silencio-representaria-aceptar-la-injusticia.html>
- Buket Buse DEMIRCI, Christian FREUDLSPERGER and Frank SCHIMMELFENNIG, «Geopolitical rebordering? External boundary formation in the European Union,» *Journal of European Public Policy*, no. 33, 2026, pp. 2089-2113. DOI: <https://doi.org/10.1080/13501763.2025.2548346>
- Udo DI FABIO, «Von der Gewerbeordnung zur Transformationspolitik des 21. Jahrhunderts,» *GeWA*, 2019, pp. 257-260.
- Silvia DÍEZ SASTRE, *La formación de conceptos en el Derecho público*, Marcial Pons, Madrid, 2018.
- Silvia DÍEZ SASTRE and Ester MARCO PEÑAS, «El derecho del Plan de Recuperación, Transformación y Resiliencia: ¿evolución del Derecho público a través de un nuevo *spending power*,» *Cef Legal. Revista práctica de Derecho*, no. 285, 2024, pp. 41-78. DOI: <https://doi.org/10.51302/celegal.2024.22271>
- Jeffrey DING and Allan DAFOE, «The Logic of Strategic Assets: from Oil to AI,» *Security Studies*, no. 30:2, 2021, pp. 182-212. DOI: <https://doi.org/10.1080/09636412.2021.1915583>
- Michael DOUGAN and Christopher HILLION, «Adapt or Perish: Reviving the EU's *raison d'être*,» *Common Market Law Review*, no. 63, 2026, pp. 61-76. DOI: <https://doi.org/10.54648/cola2026007>
- Yves DOZ and Mikko KOSONEN, *Governments for the Future: Building the strategic and agile State*, 18 August 2014, Sitra Studies, Helsinki, 2014, pp. 1-52. Available online: <https://arkisto.sitra.fi/app/uploads/2017/02/Selvityksia80-9.pdf>
- Mario DRAGHI, «The future of European Competitiveness. Part A / A competitiveness strategy for Europe,» September 2024, European Union, 2025, Available online: https://commission.europa.eu/document/download/97e481fd-2dc3-412d-be4c-f152a8232961_en?filename=The%20future%20of%20European%20competitiveness%20%20A%20competitiveness%20strategy%20for%20Europe.pdf
- Andrea Nicoleta DRAGOMIR and Sergiu Gabriel BERINDEA, «Public Security as an administrative function in the European Union. A Multilevel Governance Approach,» *Public Security and Public Order*, no. 38(1), 2026, pp. 19-31. DOI: <https://doi.org/10.13165/PSPO-25-38-01-02>
- Ian C. ELLIOTT and Alasdair ROBERTS, «The concept of the strategic state: An assessment after 30 years,» *Australian Journal of Public Administration*, no. 84, 2025, pp. 558-569. DOI: <https://doi.org/10.1111/1467-8500.12685>
- Javier ESTEBAN RÍOS, *El Derecho Administrativo para el repliegue de la globalización económica: en busca de la autonomía estratégica*, Atelier, Barcelona, 2026. Available online: [Revista de Derecho Público: Teoría y Método Vol. 14 | Año 2026](https://atelieropenac-</p>
</div>
<div data-bbox=)

- [cess.com/products/el-derecho-administrativo-para-el-repliegue-de-la-globalizacion-economica-en-busca-de-la-autonomia-estrategica?srsid=AfmBOoqVfFex1rPOLvssRVu0SnO8PYy6BWnbE-yoCnIm_raEXiK3M2IYI](https://www.cepcc.com/products/el-derecho-administrativo-para-el-repliegue-de-la-globalizacion-economica-en-busca-de-la-autonomia-estrategica?srsid=AfmBOoqVfFex1rPOLvssRVu0SnO8PYy6BWnbE-yoCnIm_raEXiK3M2IYI)
- José ESTEVE PARDO, «La Administración garante. Una aproximación», *RAP*, no. 197, 2015, pp. 11-39. DOI: <http://dx.doi.org/10.18042/cepc/rap.197.01>
- Holly FAULKNER, W. John HOPKINS and Silke CLAUSING, «To the RescEU? Disaster Risk Management as a Driver for European Integration», *European Public Law*, no. 30(1), 2024, pp. 1-21. DOI: <https://doi.org/10.54648/euro2024002>
- Jobesa K. FERNÁNDEZ GAZTEA, *La función administrativa. Concepto y aplicaciones*, Marcial Pons, Madrid, 2025.
- «Las funciones estratégicas en la Unión Europea» (forthcoming), 2026.
- Claudio FRANZIUS, «Der Gewährleistungsstaat – ein neues Leitbild für den sich wandelnden Staat?», *Der Staat*, no. 42(4), 2003, pp. 493-517. <https://www.jstor.org/stable/43643550>
- «Die europäische Dimension des Gewährleistungsstaates», *Der Staat*, no. 45(4), 2006, pp. 547-581. DOI: <https://www.jstor.org/stable/pdf/43643673.pdf>
- Christian FREUDLSPERGER and Lucas SCHRAMM, «Assessing external pressures: European integration in the geopolitical age», *Journal of European Public Policy*, no. 33:8, 2026, pp. 2063-2088. DOI: <https://doi.org/10.1080/13501763.2025.2608177>
- Sir Lawrence FREEDMAN, «The Meaning Of Strategy: Part I: The Origin Story», *Texas National Security Review*, no. 1(1), 2017, pp. 90-105. DOI: <https://doi.org/10.15781/T2WH2DXJ>
- Francisco GALÁN PABLO, «La financiación de las operaciones de mantenimiento de la paz por parte de las organizaciones internacionales: los casos de Naciones Unidas, OTAN y UE», *Revista electrónica de estudios internacionales*, no. 30, 2015, pp. 1-35. DOI: <https://doi.org/10.17103/reei.30.14>
- Graeme GARRARD, *The Return of the State And Why It Is Essential for Our Health, Wealth and Happiness*, Yale University Press, New Haven and London, 2022.
- Klaus Ferdinand GÄRDITZ, «Resilienz des Rechtsstaates», *NJW*, 2024, pp. 407-411.
- Barry GLASSNER, *The Culture of Fear. Why Americans Are Afraid of the Wrong Things*, Basic Books, New York, 2018.
- Miguel GONZÁLEZ, «La instalación de una planta china junto a la base naval de Ferrol enciende las alertas en defensa y el CNI», *El País*, 10 August 2026: <https://elpais.com/espana/2026-08-10/la-instalacion-de-una-planta-china-junto-a-la-base-naval-de-ferrol-enciende-las-alertas-en-defensa-y-el-cni.html>
- Ingo GOVAERE, «On EU Values and the Open Strategic Autonomy Paradox», *Common Market Law Review*, no. 63, 2026, pp. 141-152. DOI: <https://doi.org/10.54648/cola2026011>
- Dieter GRIMM, *Das öffentliche Recht vor der Frage seiner Identität*, Mohr Siebeck, Tübingen, 2012.
- Pierre HAROCHE, «A ‘Geopolitical Commission’: Supranationalism Meets Global Power Competition», *Journal of Common Market Studies*, no. 61(4), 2023, pp. 970-987. DOI: <https://doi.org/10.1111/jcms.13440>
- Luis Alberto HERNÁNDEZ GARCÍA, «Introducción», in Luis Alberto HERNÁNDEZ GARCÍA (coord.), *La resiliencia social como clave para la defensa*, Ministerio de Defensa, Madrid, 2025, pp. 9-25.
- Christophe HILLION (editorial comments), «A Stronger Common Foreign and Security Policy for a self-reliant Union?», *Common Market Law Review*, no. 55(6), 2018, pp. 1675-1684. DOI: <https://doi.org/10.54648/cola2018141>
- Steffen HINDELANG and Andreas MOBERG, «The art of casting political dissent in law: the EU's framework for the screening of foreign direct investment», *Common Market Law Review*, no. 57, 2020, pp. 1427-1460. DOI: <https://doi.org/10.54648/cola2020743>
- Wolfgang HOFFMANN-RIEM, «Die digitale Transformation als rechtliche Herausforderung», *JuS*, 2023, pp. 617-627.
- Josef ISENSEE, «Resilienz vom Recht im Ausnahmefall», in Kai VON LEWINSKI (ed.), *Resilienz des Rechts*, Nomos, Baden-Baden, 2016, pp. 33-55.
- Sandra KALNIETE and Tomass PILDEGOVIČS, «Strengthening the EU's resilience to hybrid threats», *European View*, no. 20(1), 2021, pp. 23-33. DOI: <https://doi.org/10.1177/17816858211004648>

- Anika KLAFFKI, «Differenzierte Rechtsgrundlagen als Gebot effizienter Krisenbewältigung,» *NJW*, 2023, pp. 1340-1344.
- «Resilienz als emergente Kategorie des Rechts,» *JZ*, no. 2, 2025, pp. 1000-1004. DOI: <https://doi.org/10.1628/jz-2025-0340>
- Andreas KRUCK and Moritz WEISS, «The regulatory security state in Europe,» *Journal of European Public Policy*, no. 30:7, 2023. DOI: <https://doi.org/10.1080/13501763.2023.2172061>
- Mario LABORIE IGLESIAS, «Orden y seguridad internacional. Transformaciones históricas y tensiones actuales,» *Documento de opinión Instituto Español de Estudios Estratégicos*, no. 93, 2026, pp. 1-23. Available online: <https://www.defensa.gob.es/ceseden/-/ieee-2026-orden-seguridad-internacional-opinion-93>
- Karl-Heinz LADEUR, «Der Staat der »Gesellschaft der Netzwerke«: Zur Notwendigkeit der Fortentwicklung des Paradigmas des »Gewährleistungsstaates«,» *Der Staat*, no. 48(2), 2009, pp. 163-192. DOI: <https://www.jstor.org/stable/43747779?seq=1>
- Michael LAWRENCE, Thomas HOMER-DIXON, Scott JANZWOOD, Johan ROCKSTRÖM, Ortwin RENN and Jonathan F. DONGES, «Global polycrisis: the causal mechanisms of crisis entanglement,» *Global Sustainability*, no. 7, 2024, pp. 1-16. DOI: <https://doi.org/10.1017/sus.2024.1>
- Enrico LETTA, «Much more than a market. Speed, security, Solidarity. Empowering the Single Market to deliver a sustainable future and prosperity for all EU Citizens,» April 2024, European Union, 2024. Available online: <https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf>
- David LEVI-FAUR, «The regulatory security state as a risk state,» *Journal of European Public Policy*, no. 30:7, 2023, pp. 1458-1471. DOI: <https://doi.org/10.1080/13501763.2023.2174170>
- Gavin MAGUIRE, «Europe's next energy shock is drying up in plain sight,» Reuters, 16 July 2026: <https://www.reuters.com/commentary/reuters-open-interest/europes-next-energy-shock-is-drying-up-plain-sight-2026-07-16/>
- Giandomenico MAJONE, «The rise of the regulatory state in Europe,» *West European Politics*, no. 17:3, 1994, pp. 77-101. DOI: <https://doi.org/10.1080/01402389408425031>
- «From Regulatory State to a Democratic Default,» *Journal of Common Market Studies*, no. 52(6), 2014, pp. 1216-1223. DOI: <https://doi.org/10.1111/jcms.12190>
- Elisenda MALARET I GARCIA, «Regulación económica: su instrumentación normativa (El lugar de la ley en el Estado regulador, la experiencia reciente española),» *Derecho privado y Constitución*, no. 17, 2003, pp. 327-360. Available online: <https://www.cepc.gob.es/sites/default/files/2021-12/10138dpc017327.pdf>
- Ester MARCO PEÑAS, «Derecho *en y tras* la pandemia. Los mecanismos de apoyo de la UE para hacer frente a la crisis de la Covid-19: el alcance de la solidaridad entre Estados miembros de la UE,» in Francisco VELASCO CABALLERO and Beatriz GREGORACI FERNÁNDEZ, *AFDUAM, extraordinario*, 2021, pp. 355-373. Available online: <https://repositorio.uam.es/server/api/core/bitstreams/9d3390bb-6977-4036-850e-388b6cb04ac5/content>
- Matt McDONALD, «Securitization and the Construction of Security,» *European Journal of International Relations*, no. 14(4), 2008, pp. 563-587. DOI: <https://doi.org/10.1177/1354066108097553>
- Lukas MILEVSKI, «What makes a good strategic concept?,» *Comparative Strategy*, no. 42:5, 2023, pp. 718-728. DOI: <https://doi.org/10.1080/01495933.2023.2236493>
- Joan MIRÓ, «Responding to the global disorder: the EU's quest for open strategic autonomy,» *Global Society*, no. 37:3, 2023, pp. 315-335. DOI: <https://doi.org/10.1080/13600826.2022.2110042>
- Massimo MONTEDURO, «Ma che cos'è questa «resilienza»? Un'esplorazione del concetto nella prospettiva del diritto delle amministrazioni pubbliche,» *Rivista Quadrimestrale di Diritto dell'Ambiente*, no. 1, 2023, pp. 4-116. Available online: <https://www.torrossa.com/en/resources/an/5917464>
- Carolyn MOSER, «Two Become One? On the Civil-Military Amalgamation of the CSDP,» *Verfassungsblog*, 30 March 2019. DOI: <https://dx.doi.org/10.17176/20190517-144329-0>
- «Transforming defence into an asset for safeguarding the EU's normative core,» *Common Market Law Review*, no. 63, 2026, pp. 209-222. DOI: <https://doi.org/10.54648/cola2026016>

- Andreas Th. MÜLLER, «Europa und die Pandemie. Zuständigkeitsdefizite und Kooperationszwänge,» *VVStRL*, no. 80, 2021, pp. 105-135.
- Giulio NAPOLITANO, «Il nuovo Stato Salvatore: strumenti di intervento e assetti istituzionali,» *Giornale di Diritto Amministrativo*, no. 11, 2008, pp. 1083-1094.
- Sauli NIINISTÖ, «Safer Together. Strengthening Europe's Civilian and Military Preparedness and Readiness,» 30 October 2024, European Union. Available online: https://commission.europa.eu/document/download/5bb2881f-9e29-42f2-8b77-8739b19d047c_en?filename=2024_Niinisto-report_Book_VF.pdf
- Gilles PAQUET, «The strategic state (primera de tres partes),» *Ciencias sociales*, no. 3(3), 1995, pp. 257-260. Available online: <https://cienciaergosum.uaemex.mx/article/view/7298>
- «The strategic state (segunda de tres partes),» *Ciencias Sociales*, no. 4(1), 1997, pp. 28-34. Available online: <https://dialnet.unirioja.es/servlet/articulo?codigo=5128789>
- «The New Governance, Subsidiarity and the Strategic State,» *Researchgate*, 2001, pp. 1-30. Available online: https://www.researchgate.net/publication/255651616_The_New_Governance_Subsiarity_and_the_Strategic_State
- Jaime PINTOS SANTIAGO, «Los acuerdos de libre comercio de la Unión Europea y el proteccionismo,» in Jaime RODRÍGUEZ-ARANA and José Antonio MORENO MOLINA (dirs.), *Tratado de Derecho público comparado: contratos públicos*, Olejnik, Chile, 2022, pp. 237-241.
- Gemma PINYOL-JIMÉNEZ, *La securitización de la política de inmigración y asilo de la Unión Europea (1999-2024). Una aproximación desde la Escuela de Copenhague*, Tirant lo Blanch, Valencia, 2025.
- Sura Raad KHALIL, «The concept of strategic culture in security studies,» *Lex Localis-Journal of Local Self-Government*, no. 23(55), 2025, pp. 2061-2073. DOI: <https://doi.org/10.52152/801535>
- Michał REKOWSKI, «Building Strategic Autonomy in the European Union,» *Studia Europejskie – Studies in European Affairs*, no. 1, 2025, pp. 241-271. DOI: <https://doi.org/10.33067/SE.1.2025.13>
- Jeremy RIFKIN, *The Age of Resilience. Reimagining Existence on a Rewilding Earth*, St. Martin's Press, New York, 2022 (digital version).
- Stephan RIXER, «Verwaltungsrecht der vulnerablen Gesellschaft,» *VVStRL*, no. 80, 2021, pp. 37-62.
- José María RODRÍGUEZ DE SANTIAGO, *Planes administrativos – Una teoría general del plan como forma de actuación de la Administración*, Marcial Pons, Madrid, 2023.
- Allan ROSAS, «Defending EU Values: Mission Impossible?,» *Common Market Law Review*, no. 63, 2026, pp. 253-268. DOI: <https://doi.org/10.54648/cola2026019>
- Matthias RUFFERT and Päivi LEINO-SANDBERG, «Next Generation EU and its constitutional ramifications: A critical assessment,» *Common Market Law Review*, no. 59(2), 2022, pp. 433-472. DOI: <https://doi.org/10.54648/cola2022031>
- Reinhard RUGE, *Die Gewährleistungsstaatsverantwortung des Staates und der Regulatory State. Zur veränderten Rolle des Staates nach der Deregulierung der Stromwirtschaft in Deutschland, Großbritannien und der EU*, Duncker & Humblot, Berlin, 2004.
- Hannah RUSCHEMEIER, «The De-Regulatory Turn of the EU Commission,» *Verfassungsblog*, 18 February 2025. DOI: <https://dx.doi.org/10.59704/b61325ec5f72184a>
- Aurel SARI, «Legal resilience in an era of grey zone conflicts and hybrid threats,» *Cambridge Review of International Affairs*, no. 33:6, 2020a, pp. 846-867. DOI: <https://dx.doi.org/10.2139/ssrn.3315682>
- «Hybrid threats and the law: Concepts, trends and implications,» *Hybrid CoE Trend Report 3*, April 2020b. <https://www.hybridcoe.fi/wp-content/uploads/2020/07/Hybrid-CoE-Trend-Report-3.pdf>
- Daniel SARMIENTO, «The single market: At the service of a values-based or a valueless EU?,» *Common Market Law Review*, no. 63, 2026, pp. 269-286. DOI: <https://doi.org/10.54648/cola2026020>
- Kristina Isabel SCHMIDT, «Europäische Armee – Konzept der Gegenwart mit Entwicklungsperspektive?,» *Europarecht*, no. 60(3), 2025, pp. 223-237. DOI: <https://doi.org/10.5771/0531-2485-2025-3-223>
- Helmut SCHULZE-FIELITZ, «Staatsaufgabenentwicklung und Verfassung. Zur normativen Kraft der Verfassung für das Wachstum und die Begrenzung von Staatsaufgaben,» in Dieter GRIMM (ed.), *Wachsende Staatsaufgaben – sinkende Steuerungsfähigkeit des Rechts*, Nomos, Baden-Baden, 1990, pp. 11-47.

- Nathan Alexander SEARS, «International Politics in the Age of Existential Threats,» *Journal of Global Security Studies*, no. 6(3), 2021, pp. 1-23. DOI: <https://doi.org/10.1093/jogss/ogaa027>
- Wolfgang SEIBEL, Christine ECKARDT, Friedrich HUFFERT, Lisa MENDE and Lorenz WIESE, «Verwaltungsresilienz unter Stressbedingungen,» *der moderne staat – Zeitschrift für Public Policy, Recht und Management*, no. 15, 2022, pp. 109-129.
- Thorsten SIEGEL, «Verwaltungsrecht im Krisenmodus,» *NVwZ*, 2020, pp. 577-583.
- Karlheinz STEINMÜLLER and Lars GERHOLD, «Existentielle Gefahren für die Menschheit als Gegenstand für die Zukunftsforschung,» *Zeitschrift für Zukunftsforschung*, no. 9(1), 2021, pp. 30-80. DOI: <https://doi.org/10.63370/zfz.v9i1.94>
- Grith Skovgaard ØLYKKE, «Safeguarding 'national security' in a public procurement context,» *Common Market Law Review*, no. 62, 2025, pp. 1121-1154. DOI: <https://doi.org/10.54648/cola2025065>
- Tobias SINGELNSTEIN and Peer STOLLE, *Die Sicherheitsgesellschaft. Soziale Kontrolle im 21. Jahrhundert*, 3rd ed., Springer, 2012.
- Isaac STANLEY-BECKER, «Schengen's Greatest Failure,» *The Atlantic*, 31 July 2026, <https://www.theatlantic.com/politics/2026/07/migration-splitting-europe-apart/688137/>.
- Armin STEINBACH, «The supranational turn of EU defence policy,» *Common Market Law Review*, no. 62, 2025, pp. 1635-1674. DOI: <https://doi.org/10.54648/cola2025100>
- Cass R. SUNSTEIN, *Laws of Fear. Beyond the Precautionary Principle*, Cambridge University Press, New York, 2005.
- *Averting Catastrophe. Decision Theory for COVID-19. Climate Change, and Potential Disasters of All Kind*, New York University Press, New York, 2021.
- Nassim Nicholas TALEB, *The Black Swan. The Impact of the Highly Improbable*, Random House, New York, 2022.
- José Ignacio TORREBLANCA, «Poder, geopolítica, soberanía y tecnología,» *Documento Análisis, Instituto Español de Estudios Estratégicos*, no. 40, 2026, pp. 1-30. Available online: <https://www.defensa.gob.es/ceseden/-/ieee-2026-poder-geopolitica-soberania-tecnologia-analisis40>
- Mariola URREA CORREAS, «Lo ocurrido en Ceuta no es inmigración, es un ataque híbrido,» *El País*, 1 August 2026. <https://elpais.com/opinion/2026-07-31/lo-ocurrido-en-ceuta-no-es-inmigracion-es-un-ataque-hibrido.html>
- Sofia VANDENBOSCH, Kerttuli LINGENFELTER and Carolyn MOSER, «Law and Governance Variations of Europe's Geopolitical Awakening,» *Verfassungsblog*, 28 October 2024. DOI: <https://dx.doi.org/10.59704/b1a5127f403ec766>
- Andreas VORRKHLE, «Der »Dienstleistungsstaat«: Über Nutzen und Gefahren von Staatsbildern,» *Der Staat*, no. 40(4), 2001, pp. 495-523. <https://www.jstor.org/stable/pdf/43643307.pdf>
- Wolfgang WEIß, *Privatisierung und Staatsaufgaben*, Mohr Siebeck, Tübingen, 2002.
- «Die neue EU-Politik zu kritischen Rohstoffe im Zeichen des strategischen Autonomie,» *EuZW*, 2025, pp. 413-422.
- Daniel WOLFF and Nina DÄHNE, «Resilienz der Verwaltungsgerichtsbarkeit,» *JZ*, no. 12, 2026, pp. 521-529.
- Fareed ZAKARIA, «The Rise of Illiberal Democracy,» *Foreign Affairs*, November-December, 1997, pp. 22-43.
- Silvia ZORZETTO, «Resilienza tra metafora e politica del diritto. Le sfide della certezza e regolazione nelle »società del rischio e delle emergenze,» *Forum di Quaderni Costituzionali*, no. 3, 2023, pp. 196-207. Available at: www.forumcostituzionale.it
- Dimitri ZURSTRASSEN, «Learning From the Past? EU Industrial Policy Challenges,» *Governance*, 2025, pp. 1-16. DOI: <https://doi.org/10.1111/gove.70068>