

EU Common Foreign and Security Policy After Lisbon

Luigi Lonardo

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Between Law and Geopolitics

 Springer

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*The book is dedicated to my teachers and to
my students*

Foreword

The numerous crises of the past decade have put EU policy-making under unprecedented strain. In the past, crises—of an internal and/or external nature—have often triggered responses by the EU and its member states that have strengthened economic and political integration and widened its scope. However, the sequence of critical events and developments that has hit the EU since the entry into force of the Lisbon Treaty has put to a severe test a ‘system’ that had not been set up to deal with such contingencies. The financial and euro-zone crisis (first external and then internal), the so-called Arab Spring (external) and its ramifications (also internal, from terrorism to refugees), Russia’s annexation of Crimea and destabilisation of Ukraine (mainly external), the COVID-19 pandemic (mainly internal but with external spin-offs) and, now, Russia’s invasion of Ukraine—not to mention Brexit (internal) and the Trump presidency (external)—have all contributed to highlighting the inadequacy of a legal and institutional framework that had been built incrementally over the years against the backdrop of the immediate post-Cold War environment and a Union of only 12/15 member states.

Still a predominantly ‘fair-weather’ set-up—whose core elements date back to the Maastricht Treaty (agreed in late 1991) and were marginally adjusted during the following decade—the European Union has thus found itself painfully exposed and vulnerable to the crises of the last decade, most of which came as a surprise and a shock. Responding to the euro-zone crisis required actions that the treaties did not necessarily envisage or allow for, thus forcing the member states to adopt decisions that, in the end, imposed a limited review of the existing rules but did not fundamentally change the overall architecture. The Arab uprisings put into question the EU collective approach to its southern neighbours, while the Ukrainian crises did the same with its approach to the eastern neighbours. Refugees, illegal migrants, and terrorist attacks affected the internal/external nexus and challenged internal cohesion and solidarity at large—as also did, to some extent, the COVID-19 pandemic. Both the Brexit referendum and the Trump presidency highlighted and aggravated tensions that had been simmering for some time already and contributed to the overall decline of the liberal international order created at the end of the Cold War that the

EU had supported and thrived in. And the return to great power competition—of which Russia's aggressions are also a manifestation—has drastically challenged the Union's own *modus operandi*, as European integration was launched to overcome precisely that in the first place (at least within Europe).

In this book, Luigi Lonardo addresses in particular how and why EU 'law' (its legal and institutional rules and procedures) seems now to be out of sync with 'geopolitics' and the current unstable and unpredictable international landscape. He focuses primarily on the procedures and policies that fall under the rubric CFSP/CSDP but increasingly encompass (or relate to) other types of EU 'external action', especially since the entry into force of the Lisbon Treaty. He correctly emphasises the initial and structural 'distinctiveness' of CFSP/CSDP—since at least the Single European Act (1987)—and the constant challenge of making it ever more 'consistent' with other forms of collective international action by the EU and its member states. He also pays special attention to the specific internal 'geopolitical' challenge represented by the successive enlargements of the Union, whose 'law' had been first created and then adapted by and for a smaller and essentially western Europe. And he does so by providing comprehensive information and in-depth analysis on the main aspects of both EU 'law' and EU policy as well as delving into the 'geopolitical' issues that have come to test them.

Admittedly, the term 'geopolitics' is charged. It has its historical roots in an intellectual tradition—from Rudolf Kjellen to Halford Mackinder and Karl Haushofer—that often flirted with (or was bent to) imperialistic territorial visions, and was thus widely discredited after WW2. Later on, it flourished in France—through the discipline of historical and political geography promoted by the periodical 'Herodote', from Yves Lacoste to Michel Foucher—where it gained an autonomous space in the academic and public debate. More recently, it has enjoyed some editorial and political success in Italy, mainly through the periodical 'Limes'—but, especially in the latter case, not without some excesses in terms of geographic and ethno-historical determinism and neglect of other sources of international behaviour. In the Anglosphere, it has long remained confined to a few 'realist' scholars of international relations, but the term has now become almost a synonym for great power competition—especially between the West (starting with the US) and rival actors at both global and regional level. This book makes some interesting connections between all these different receptions and perceptions of 'geopolitics' in relation to the European 'space'—and not only in geographic but also in political, institutional, and legal terms.

How and to what extent can the current gap between 'law' and 'geopolitics' be addressed? The author illustrates a number of arguments for change in the EU institutional and legal 'system' and discusses also the feasibility of some of them. In fact, any substantial treaty change would have to overcome the structural difficulty of reaching consensus at 27, including the challenge of overcoming unanimity by unanimity, so to speak. It is a difficulty made even bigger now by the increased political heterogeneity of the member states—with sometimes divergent interests, attitudes, and preferences—and by the persistent threat of national referenda in the

ratification phase—a threat that is bigger the more significant the changes will be, as the experience of the past decades has proved.

Moreover, as the discussion around the Conference on the Future of Europe has shown, a significant number of member states—especially small and recent—oppose significant reforms, especially in the domain of CFSP/CSDP, as they fear the potential ‘hegemony’ of their bigger partners. And the European public itself seems torn between the demand for ‘more Europe’ when it comes to handling major international crises and the concern for preserving or even regaining some ‘control’ at the national level.

Nevertheless, some reasonable adjustments to the ‘brave new world’ we may have to be confronted with in the years to come are worth considering in some detail, as the book does. Herein lies, too, its originality as well as the added value it brings to a discussion that is bound to continue for some time among officials, academics, and the wider public.

Brussels, Belgium
August 2022

Antonio Missiroli

Acknowledgments

I would like to thank Antonio Missiroli, whom I am proud to call my maestro. I had the privilege of teaching with him at the Paris School of International Affairs, where many of the ideas for this book matured. The reader will realise that this book owes much to his volume *L'Europa Come Potenza. Diplomazia, sicurezza e difesa*, published in Italian in 2022, from which I occasionally borrow verbatim. Less obvious to the reader, but more profound for the author, is the influence of the long conversations at Basile in rue St Guillaume.

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Christopher Devenish helped with the research on Chap. 6, his invaluable assistance being funded by the Irish Department of Foreign Affairs and gratefully acknowledged. Archishman Ray Goswami and Baris Çelik also commented very helpfully on Chap. 6. Fulvio Lonardo on Chap. 7. Nico Sauter provided invaluable comments on all the chapters, and Conal O'Gadhra helped me enormously with both the editing and the content of the entire book.

If I managed to convey any sophistication in this book, it is probably the merit of all of them. It goes without saying, as Burke said in his reflections on the Revolution in France, that ‘my reputation alone is to answer for any mistakes’.

I am happy to acknowledge that some of the ideas discussed in the book draw on previous publications of mine, either single-authored or co-authored. Section 3.2 draws on Lonardo, Common Foreign and Security Policy and the EU’s external action objectives: an analysis of Article 21 of the Treaty on the European Union (2018) *European Constitutional Law Review*; Section 5.2 on Lonardo and Missiroli, ‘From EnCo to PeSCo’ (Bruges Research Papers 2019/2); Section 5.4 on Lonardo, Integration in European Defence: Some Legal Considerations (2017) 2(3) *European Papers* 887–903.

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I first thought of this book when I was in London. It grew up in Paris. It matured in Ireland. The core of it was written in Athens, nourished by Mediterranean light and all that comes with it.

2022

Athens, Greece

Luigi Lonardo

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About the Author

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List of Abbreviations

AA	Association Agreement
AFSJ	Area of Freedom, Security and Justice
CAP	Common Agricultural Policy
CEPA	Comprehensive Enhanced Partnership Agreement
CJEU	Court of Justice of the European Union
COREPER	Committee of Permanent Representatives
DCFTA	Deep and Comprehensive Free Trade Agreement
DOSA	Defence of Space Assets
DRC	Democratic Republic of Congo
EaP	Eastern Partnership
ECHR	European Convention for the Protection of Human Rights
EC	European Community
ECJ	European Court of Justice
EDC	European Defence Community
EEAS	European External Action Service
EMAA	Euro-Mediterranean Agreement establishing an Association
ENP	European Neighbourhood Policy
EP	European Parliament
EU	European Union
CCP	Common Commercial Policy
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defence Policy
GC	General Court
HARMSPRO	Harbour and Maritime Surveillance and Protection
HR/VP	High Representative/Vice President of the Commission
IS	Islamic State
MUSAS	Maritime Unmanned Anti-Submarine System
NATO	North Atlantic Treaty Organisation
PCA	Partnership Cooperation Agreement
PeSCO	Permanent Structured Cooperation

PSC	Political and Security Committee
QMV	Qualified Majority Voting
SAA	Stabilisation and Association Agreement
SAP	Stabilisation and Association Process
TEU	Treaty on the European Union
TFEU	Treaty on the Functioning of the European Union
TNC	Transitional National Council
UfM	Union for the Mediterranean
UN	United Nations
UNSC	United Nations Security Council
USSR	Union of Soviet Socialist Republics
V4	Visegrad Four

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