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The EU's Response to the War in Ukraine and Its Impact on the EU Legal Order

Sara Poli
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Sara Poli · Madalina Moraru · Luca Paladini · Clara Portela

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Foreword

The impact of Russia's invasion of Ukraine can hardly be overestimated, and of course the war that this act of aggression prompted is still raging, now in its fifth year. Much may be said about that impact, ethically, geopolitically and legally and this book provides a welcome and multi-faceted examination, *in media res*, of one specific dimension: the EU's response and how that response has shaped the EU 'as a legal order and as an international actor'—in the authors' well-expressed phrase.

It is often said that it is in responding to crises, both internally and externally generated, that the EU, historically, has taken some of the most significant steps in its process of integration. We can certainly see such moments in the EU's response to (for example) the fall of the Berlin Wall, the terrorist attacks of 11 September 2001, the financial and sovereign debt crises of 2009–2018, Brexit, and Covid. Even in comparison to these major events, the direct and indirect impacts of the Russian invasion of Ukraine are both deep and far-ranging—for Ukraine and Russia itself certainly, but also for the EU, for which the conflict has been seen as a test of its ability to act to defend its neighbourhood and its values. This book offers some fascinating studies of the EU's response, and responsiveness; and as the comments above suggest, it is concerned not only with assessing its effectiveness, but also in the way in which the need to find appropriate and effective instruments has influenced the EU's own development.

What are those instruments? Since an EEC instrument was first used in 1982 to impose economic sanctions against the Soviet Union as a response to the imposition of martial law in Poland, restrictive measures have become a key EU foreign policy instrument, used now not only against specific countries and regimes but also against individuals. They have expanded from simple quantitative restrictions on goods to include sophisticated measures on investment, foreign media, arms embargoes, and targeted 'smart sanctions' such as asset freezes and visa bans. From the start they have prompted debate as to competence, appropriate legal basis, scope and type of measures, compliance with both international law and the EU's own fundamental rights protections, including access to justice, and—not least—their effectiveness. Restrictive measures have played a central role in the EU's response to the invasion of Ukraine, being—it can be argued—transformed as a foreign policy tool in process:

it is telling that five chapters of this book are, entirely justifiably, devoted to restrictive measures. We have seen an expansion of designation criteria to such an extent that the authors suggest a distinct move away from the focus on 'smart sanctions' targeting individuals identified as primarily responsible for the acts of aggression and destabilisation, towards a broader objective of undermining Russia's economy.

The freezing of the assets of the Russian Central Bank, largely held in Belgium, exemplifies this approach, and although the EU has made innovative use of a tax on the revenues from these investments to support Ukraine via the European Peace Facility, the possibility of confiscation of those assets has still not been resolved, either legally or politically. Moves have also been made to make the sanctions regime more effective, targeting circumvention, including third country operators as targets, and through the use of criminal penalties, a ground-breaking innovation at Union level. For the first time, too, sanctions have been imposed on media outlets operating within the EU, the Court accepting that the dissemination of Russian propaganda justified their objective in 'safeguard[ing] the Union's values, fundamental interests, security and integrity.'

If both restrictive measures and the use of the European Peace Facility demonstrate both the capacity for innovation within the framework of existing foreign policy instruments and considerable flexibility in the EU's institutional ability to adapt to policy divergence between Member States, through *inter alia* the use of constructive abstention, the EU's response also demonstrates some conspicuous failures, in particular the failure to activate the 'essential elements' clause in its Partnership and Cooperation Agreement with Russia. The story is by no means always positive.

Alongside specific instruments, this book engages with the way in which the EU's foreign policy objectives have been (re)shaped in response to the changed geopolitical environment. A changing perspective on solidarity within its neighbourhood is strikingly manifested in the context of migration and asylum (the Temporary Protection Directive) and enlargement. While enlargement has always possessed a foreign policy dimension, its reactivation in the post-invasion context underlines its strategic geopolitical role. The EU is nonetheless still struggling to manage the interaction between the 'high politics' of enlargement and its more technocratic procedures, and—no less difficult—to manage the expectations of both Ukraine and its Member States. At a number of points during the narrative, this book prompts us to take stock of how immediate responses triggered by admirable sentiments of solidarity can be consolidated and maintained in the longer-term and in face of intra-Member State divergence and imbalances.

No doubt, as this book argues, the significant developments in the EU's defence capability since 2022 and perhaps more significant altered awareness of the need for Europe (not just the EU) to develop greater defence autonomy are the result of a combination of factors, not least the recalibration of US foreign policy under President Trump. Nonetheless the broader impact of Putin's policies of aggression continues to pose challenges for the EU's ability to respond in both civilian and military crisis management. Above all, the war in Ukraine still continues and Ukraine's extraordinary resilience and courage is itself a challenge to us all. We can be sure

that this story is not yet ended and that there will be further chapters to write in documenting the impact of that war on the EU and EU foreign policy.

Bristol, UK
March 2026

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