

**INTERNATIONAL POLITICS SHAPED BY THE EU:
A CRITICAL ANALYSIS OF THE EUROPEAN COMMON FOREIGN AND
SECURITY POLICY**

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I. Introduction

Development of healthy economic and political relations with various international actors lies at heart of the European Union's (EU) external actions. In engaging in these relations, the EU seeks to safeguard its fundamental values and interests and promote them world-wide.¹ In that respect, the Common Foreign and Security Policy (CFSP) plays a crucial role in the EU'S activities on the international scene. It has to be underlined that the CFSP has a very broad scope and covers all issues related to foreign policies of the EU and its Member States (MSs), particularly aspects of defence and security.² Most importantly, the policy enhances the role of the EU as a unitary actor on the international scene, allowing MSs to exercise their influence jointly.³ As a consequence, the involvement of the EU in the world of global politics strengthened, including its position in preserving international peace and security and promoting democracy and human rights. However, the question which raised an interest

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¹ Luigi Lonardo, 'Common Foreign and Security Policy and the EU's External Action Objectives: An Analysis of Article 21 Treaty on the European Union' (2018) 14(3) *European Constitutional Law Review*, p. 590.

² Hylke Dijkstra & Sophie Vanhoonacker, 'The Common Foreign and Security Policy' (2016) *Oxford Research Encyclopedia of Politics* <<https://oxfordre.com/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-155>> accessed 18 February 2022.

³ Derek Mix, 'The European Union: Foreign and Security Policy' (2013) *Congressional Research Service*, p. 7.

among legal scholars is the rationale behind EU actions in the CFSP and its possible development in the future. One can argue that even though the current CFSP fostered the unity of the EU, due to the peculiar nature of this policy field, the actual decision-making process is and will stay mainly intergovernmental.⁴ Nonetheless, it can be observed that the changes brought by the Lisbon treaty made the CFSP more structured, what resulted in a more unified and coherent decision-making process in European foreign affairs. Accordingly, the EU does not exclusively act on behalf of its MSs, but also tends to pursue its own goals and interests in this field of external actions.⁵

This article seeks to conduct a critical analysis of the place the EU currently occupies on the international scene and how it uses its central position to shape international politics in order to promote international peace and security. For this purpose, it will firstly provide the reader with a general overview of the CFSP and how the Lisbon treaty changed the EU's functioning in this field. Secondly, taking the EU-Russia relations as a starting point, this article will evaluate the means the EU employs to achieve its CFSP goals. Thirdly, it will seek to predict the possible future of the EU role as a unitary political actor in the global fora.

II. Common Foreign Security Policy: A General Overview and Developments

The current CFSP is one of the most controversial fields of competence where the EU exercises its influence. Due to the distinct nature of this policy field, light must be shed on the particularities of the CFSP and its creation and development. Considerable changes to the general EU structure and functioning were introduced by the Lisbon Treaty which entered into force on the 1st of December 2009 with the goal of enhancing both EU's legitimacy and effectiveness, and tackle the issue of democratic deficit.⁶ Accordingly, this Treaty brought about several developments ranging from the consolidation of the EU's legal status to crucial institutional reforms. Most importantly, it explicitly granted the EU legal personality by article 47 of the Treaty on European Union (TEU),⁷ conferring defined and distinct status. The EU is perceived as the legitimate representative of its MSs and thus bears the responsibility of

⁴ Viktor Szép, 'New intergovernmentalism meets EU sanctions policy: the European Council orchestrates the restrictive measures imposed against Russia' (2019) 41(2) *Journal of European Integration*, p. 8.

⁵ Helene Sjørnsen, 'Understanding the Common Foreign and Security Policy: Analytical Building Blocs' in Sebastian Princen and Michelle Knodt (eds.), *Understanding the EU External Relations* (Routledge 2003), p. 38.

⁶ Directorate General for External Policies of the Union, 'The Lisbon Treaty and its implications for CFSP/CSDP' (2010) European Parliament, p. 1.

⁷ Consolidated Version of the Treaty on European Union (TEU) [2008] OJ C115/13, art. 47.

promoting coherence and enhancing the efficiency of its external relations. One of the most relevant consequences of having a legal personality is the EU's capacity to engage in negotiations and eventually conclude agreements with third parties.⁸

Crucially, the Lisbon Treaty abolished the three-pillar system and devoted a distinct place to the CFSP in the EU's legal framework.⁹ It has to be emphasised that this policy forms an integral part of the EU's external relations, and its position has always been strengthened throughout Treaty developments. The policy is aimed at fostering democracy, upholding the rule of law and promoting respect for human rights.¹⁰ It also provides the legal basis for the EU to act as the guardian of international peace and security ensured by a sincere co-operation and co-ordination efforts worldwide.¹¹ The policy currently regulates all foreign and security matters which often comprises dealing and preventing crises under the Common Security and Defence Policy.¹² It is therefore apparent that the EU acquired the role of "multilateral security actor."

The institutional setting in the context of the CFSP is even more interesting: for the proper achievement of the policy's objectives, the Treaty introduced institutional reforms among which a new position, namely the High Representative of the EU for Foreign Affairs and Security Policy (HR).¹³ This dual post combines the tasks of both the Vice-President of the European Commission and the Chair of the Council of Foreign Ministers with the sole objective of facilitating co-ordination among different EU actors. By acting as a bridge between EU institutions, the HR ensures the coherence the EU lacked in its external relations before the Lisbon Treaty has entered into force. Therefore, one can argue that the HR increases the overall effectiveness of the CFSP.¹⁴ It is noteworthy that in this field, the Commission has a particularly restricted role as it contents itself with supporting the HR's initiatives and is deprived of executive powers.¹⁵ The same applies to the European Court of Justice, which

⁸ Ian Baxhe and others, *Politics in the European Union* (4th edn, OUP 2015), p. 498.

⁹ *Idem*, p. 499.

¹⁰ European Parliament, 'Foreign Policy: Aims, Instruments and Achievements' (2020) European Parliament, p. 5.

¹¹ *Idem*, p. 1.

¹² Panos Koutrakos, *The EU Common Security and Defence Policy* (OUP 2013), p. 57.

¹³ Annegret Bendiek, 'A Paradigm Shift in the EU's Common Foreign and Security Policy: From Transformation to Resilience' (2017) Stiftung Wissenschaft und Politik German Institute for International and Security Affairs, p. 8.

¹⁴ Ian Baxhe and others 2015, *supra* note 8, p. 499.

¹⁵ TEU 2008, *supra* note 7, art. 30.

cannot challenge EU actions undertaking the CFSP.¹⁶ At the end of the day, the decision-making power lies in the hands of the European Council and the Council of the EU, where each MS can veto any CFSP proposal in cases where its vital interests are threatened.¹⁷ The European Parliament only needs to be updated and consulted regarding aspects and issues arising from the CFSP in order to preserve the democratic character of the EU.¹⁸ Additionally, the Lisbon Treaty does not explicitly specify which type of EU competence this policy falls under. Such an institutional setting strongly points out that the CFSP preserves a particularly intergovernmental character as opposed to a supranational one, due to the distinct nature and dimension of this policy field.¹⁹

III. CFSP Practical Implementation: Case Study of EU-Russia Relations

III.1 CFSP in Practice: General Remarks

As means of implementing the previously discussed CFSP, the EU tends to adopt various measures against third parties as a systematic response to political behaviour that goes against the goals it aims to preserve. Since its very creation, the EU officially declared international peace and security as its primary concern. Consequently, it strongly advocates for the respect of human rights and the rule of law which form the very essence of the *acquis communautaire*.²⁰ Notably, the EU not only lays such ideals at the heart of its internal legal framework but also thrives on extending them to the international scale by orienting its foreign policies towards their promotion and protection²¹ Thus, it is crucial to discuss the instrumental use of the CFSP in boosting security standards and protecting peace among the international community. The EU's encouragements to comply with European standards can be observed through different actions in EU foreign policies, such as political dialogues and support for human rights organisations.²² Where necessary, the EU proceeds to the imposition of restrictive measures.

¹⁶ Consolidated Version of the Treaty on the Functioning of the European Union (TFEU) [2016] OJ C202/1, art. 275(1); Christina Eckes, 'Common Foreign and Security Policy: The Consequences of the Court's Extended Jurisdiction' (2016) 22(4) European Law Journal, p. 493.

¹⁷ *Idem*, art. 218.

¹⁸ European Parliament (n 10) 2; TEU 2008 *supra* note 7, arts. 27, 36.

¹⁹ Ramses Wessel, 'Integration and Constitutionalisation in EU Foreign and Security Policy' in Robert Schütze (ed.), *Governance and Globalization: International and European Perspectives* (CUP 2018), p. 394.

²⁰ Raimondo Cagiano de Azevedo and others, 'Sovereignty and *acquis communautaire*: the new border of the European Union' (2013) 368 *l'Europe en Formation*, p. 192.

²¹ Paul Cardwell, 'The Legalisation of European Union Foreign Policy and the Use of Sanctions' (2015) 17 *Cambridge Yearbook of European Legal Studies*, p. 308.

²² Annegret Benedict & Heinz Kamer, 'The EU as a "Strategic" International Actor: Substantial and Analytical Ambiguities' (2010) 15 *European Foreign Affairs Review*, p. 460.

The latter measures, best known as sanctions in the CFSP domain, will be further discussed in the following section.

As rightly defined by L. S. Borlini and S. Silingardi, sanctions are ‘*measures adopted by the EU to influence other subjects’ conduct*’.²³ They are used as a way to restrict a state relationship with other states or international organisations and thus, to make the respective state(s) comply with the EU’s demands. Sanctions can take various forms depending on the individual circumstances of the case and are usually directed against individuals, activities of governments or legal persons.²⁴ Their regulation is governed by Part V of the Treaty on the Functioning of the EU (TFEU), articles 21-46 of the TEU, and complemented by the Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU CFSP.²⁵ Hence, sanctions are designed to fulfil their punitive or deterrent purpose while minimising collateral damages for neutral parties.²⁶ The sanctioning mechanism was largely used by the EU in the past and proved to be effective due to the crucial position the EU exercises on the international scene.²⁷ One can argue that it progressively occupied a central place in the CFSP and developed in a paramount instrument for maintaining global security and peace. For instance, the EU imposed a list of various trade sanctions on Cambodia.²⁸ It is noteworthy pointing out that sanctions are also promoting values shared by the international community as a whole, and are not only for the EU to pursue either its own or its MSs’ individual interests.²⁹ Accordingly, restrictive measures can be qualified as one of the strongest and most far-reaching tools employed by the EU in order to pursue its objectives and promote its values.

²³ Leonardo Borlini & Stefano Silingardi, ‘Defining Elements and Emerging Legal Issues of EU “Sanctions”’ (2018) Bocconi Legal Studies Research Paper No. 3287431, p. 2.

²⁴ Christina Eckes, ‘The CFSP and Other EU Policies: A Difference in Nature?’ (2015) 20(4) European Foreign Affairs Review, p. 538.

²⁵ TFEU 20016, supra note 16, Part V; Council of the European Union, Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy Doc 5664/18 [2018].

²⁶ Martin Russell, ‘EU sanctions: A key foreign and security policy instrument’ (2018) European Parliament Research Service, p. 3.

²⁷ Christian Horbelt, ‘A Comparative Study: Where and Why does the EU impose Sanctions’ (2017) 43 UNISCI Journal, p. 63.

²⁸ Jonathan Stearns, ‘EU Hits Cambodia With Trade Sanctions Over Rights Breaches’ (*Bloomberg* 12 February 2020) <<https://www.bloomberg.com/news/articles/2020-02-12/europe-hits-cambodia-with-trade-sanctions-over-rights-breaches>> accessed 18 February 2022; European Commission, ‘Cambodia loses duty-free access to the EU market over human rights concerns’ (2020) European Commission, pp. 1-2.

²⁹ Christina Eckes, ‘The Law and Practice of EU Sanctions’ (2018) Research Handbook on the EU’s Common Foreign and Security Policy, p. 222.

III.2 The Case Study of Russia: The EU Involvement in The Situation in Ukraine

The EU-Russia relations around Crimea offer a perfect example of sanctions used by the EU. There is no doubt that the case of Crimea triggered the attention of the entire international community. The EU in turn openly expressed its dissatisfaction with actions of the Russian government, which further led to EU's first wave of sanctions imposed on Russia in March 2014.³⁰ The EU made three steps in imposing sanctions on Russia: (1) the suspension of bilateral talks between the EU and Russia, (2) the imposition of travel bans for certain individuals and freezing of their assets, and, lastly, (3) the invocation of economic sanctions targeting Russia as a state.³¹ One can see that the Council was gradually increasing the severity of its measures and prolonging them in order to influence Russia's activities.³² Such a gradual intensification of the sanction emphasises the interest the EU has in its partnership with Russia, particularly on the level of trade given that economic sanctions were employed as "the last resort".³³ Indeed, restrictive measures of economic nature were used by the EU only after it openly accused Russia of fuelling the situation in Ukrainian. For instance, the EU has restricted Russia's access to its capital markets, made an embargo on arms trade activities and prohibited export of dual use goods and military technology and of products designated for various types of oil exploitation.³⁴ It further resulted in an economic recession and a financial crisis in Russia, which were followed by an economic stagnation and a slow recovery process.³⁵ In response, Russia imposed restrictive measures as well such as limiting import of various agri-food goods from the EU.³⁶ One can argue that these reciprocal sanctions had an adverse impact on Russian economy as

³⁰ Stephanie Pezard and others, *European Relations with Russia: Threat Perceptions, Responses, and Strategies in the Wake of the Ukrainian Crisis* (RAND 2017), pp. 1-2.

³¹ European Council Council of the European Union, 'Sanctions: how and when the EU adopts restrictive measures' (*European Council Council of the European Union* 10 February 2020) <<https://www.consilium.europa.eu/en/policies/sanctions/>> accessed 18 February 2022.

³² For example, see: The Council of the European Union, Decision of the Council (CFSP) 2015/1781 of 5 October 2015 amending Decision 2014/119/CFSP concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine [2015] OJ L 259/23.

³³ Stephanie Pezard 2017, *supra* note 30, p. 32.

³⁴ Vadim Voinikov, 'The EU vs. Russia: Legal Nature and Implementation of the Union's Restrictive Measures' (2015) 23(1) *Baltic Region*, p. 70.

³⁵ Pami Aalto & Tuomas Forsberg, 'The structuration of Russia's geo-economy under economic' (2016) 14 *Asia Europe Journal*, p. 227.

³⁶ David Herszenhorn, 'Putin extends counter-sanctions against EU' (*Politico* 30 June 2017) <<https://www.politico.eu/article/putin-extends-counter-sanctions-against-eu/>> accessed 18 February 2022; D.G. Rodionov and others, 'Currency Crisis in Russia on The Spun of 2014 and 2015: Causes and Consequences' (2015) 11 *International Strategic Management Conference*, p. 852.

the EU has always been its core partner in the agri-food supply field.³⁷ However, the EU has also experienced significant economic challenges, as it lost its second biggest export agri-food partner.³⁸ Nevertheless, regardless of the eventual harm the loss of such a valuable trade partner might engender, the EU must face this challenge and bear the consequences if it wants to be seen as a persistent actor on international arena.

IV. EU as a Global Actor: What's Next?

IV.1 Future of EU-Russia Relations: Stronger Sanctions or Softer Measures?

The case of EU-Russia relations stays complicated, and the future of restrictive measures imposed depends on the efficiency of political dialogue requiring compromises between the parties. Unfortunately, one cannot predict the abolition of sanctions in the foreseeable future.³⁹ Indeed, the political and economic power Russia currently has does not leave the EU a choice but to keep its sanctions, notwithstanding the availability of softer measures. On the one hand, given that the EU is inherently a market power, its economic restrictive measures are likely the most far-reaching response.⁴⁰ They allow the EU to target the greatest number of stakeholders and to exert pressure on Russia and its economy. Accordingly, it is feasible that in a few years the EU can continue to play a crucial role in improving the Russia-Ukraine relations. It might seek to stabilise relations between the two states as part of its CFSP. Taking into account the EU-Russia interconnectedness in the field of trade, it can be assumed that, with time, the political and economic pressure exerted by the EU will prove to be effective.⁴¹ On the other hand, it can be argued that due to a large amount of other political and economic partners Russia currently has around the world, the outcome of the sanctions regime might only reshape commercial relations between existing trading blocks.⁴² Hence, this would hardly influence the situation in question. The lacking effectiveness of sanctions under certain circumstances can

³⁷ Heli Simola, 'Limited Interdependence in EU-Russia Trade' in Kristi Raik and András Rácz (eds.) *Post-Crimea shift in EU-Russia relations: from fostering interdependence to managing vulnerabilities* (International Centre for Defence and Security 2019).

³⁸ Rainer Apel, 'EU Sanctions Against Russia Are a Boomerang' (2014) 41(33) *Executive Intelligence Review*, p. 38.

³⁹ European Council Council of the European Union, 'Russia: EU prolongs economic sanctions by six months' (*European Council Council of the European Union* 19 December 2019) <<https://www.consilium.europa.eu/en/press/press-releases/2019/12/19/russia-eu-prolongs-economic-sanctions-by-six-months/>> accessed 18 February 2022.

⁴⁰ Sophie Meunier & Kalyso Nicolaidis, 'The EU as a conflicted trade power' (2006) 13(6) *Journal of European Public Policy*, p. 913.

⁴¹ *Idem*, p. 909.

⁴² Looking Ahead, 'Russia looks to Asia and Middle East to beat EU sanctions', (2016) 41(7) *Oil and Energy Trends*, p. 14.

illustrate that these measures do not constitute the ultimate mean to revamp political behaviour of states. It is the case because sanctions often result in a defensive reaction by a state towards the EU and generate strong tensions between the parties. Most importantly, sanctions can cause an unnecessary suffering of the sanctioned state's civil population which clearly goes against the goal of global peace the EU is trying to pursue in its CFSP.⁴³ As a result, a more appropriate EU response would consist in more peaceful means for implementing the CFSP, such as conducting a human rights dialogue and striking political compromises.

IV.2 Other Related EU Actions under CFSP: Analysis and Criticism

The second crucial matter to be discussed is the general involvement of the EU in global politics. The level of influence the EU seeks to exercise on the international level encounters a large amount of criticism: the EU is accused of westernising the world.⁴⁴ From a legal perspective, the future of EU sanctions stays highly unpredictable and above all contentious. The strong international presence of the EU particularly through its sanctioning schemes raises controversy as to its legality. An essential prerequisite for action, especially one of such width, is legitimacy which usually stems from an explicit legal basis. The CFSP can be construed as a one for the EU to act as a peace and security watchdog, however, it raises the question of whether such task is confined to the borders of the EU. Indeed, one can argue that the EU acts *ultra vires* in its quest of exporting its fundamental values and standards. Being entitled to an international legal personality and thus the ability to act on the international scene does not necessarily entail an absolute right of monitoring international compliance with European ideals.⁴⁵ Therefore, it is arguable that imposing order beyond the borders of the EU falls outside its functions.

Another point worth discussing is the possible consequences European actorness in the field of security and defence can have on the internal functioning and cohesion of the EU. Indeed, by virtue of the international legal personality the EU enjoys, it acquired the capacity of representing its own interests as opposed to the interests of the individual states.⁴⁶ In a setting where these interests do not coincide, the harmony of the EU is destabilised and runs the risk

⁴³ Francesco Giumelli, 'How EU sanctions work: a new narrative' (2013) Chaillot Paper N 129 European Union Institute for Security Studies, p. 41.

⁴⁴ Mujtaba Isani & Bernd Schlipphak, 'The Desire for Sovereignty – An Explanation of EU Attitudes in the Arab World' (2017) 55(3) Journal of Common Market Studies, p. 509.

⁴⁵ Carlos González, 'Report on the legal personality of the European Union' (2001) European Parliament, p. 10.

⁴⁶ Idem, p. 11.

of being fragmented. Accordingly, if the internal unity of the EU collapses and the loyalty of the MSs gradually diminishes thereof, the EU cannot assert anymore its actorness on the international level.⁴⁷ Consequently, one can argue that the position of the EU as a unitary actor in the field of CFSP is largely dependent on the way its policies' implementation is perceived by its MSs and their attitude regarding that matter.⁴⁸ One can argue that this should press the EU to prioritise the promotion and satisfaction of MSs' interests rather than act as an international avenger alone and pursuing its own political interests.

V. Conclusion

To conclude, it has to be reiterated that the EU is one of the strongest players on the international scene in several fields, including trade. Accordingly, it successfully uses its position in order to control the behaviour of other states and direct it in line with EU standards and goals. The question at the heart of this research is the role of the EU in international politics and its capacity of shaping them. Accordingly, this paper shows that the EU has gradually developed its CFSP to enhance unity in its foreign affairs. Nonetheless, despite its general appearance as a strong unitary actor, the EU preserved a mostly intergovernmental character in the CFSP, without leaving room for the Commission's or the CJEU's interference. Its actions in this policy field are now shaped by the fundamental values and goals the EU adheres to and its will to actively promote them worldwide. A clear example of the CFSP in action is the imposition of sanctions on Russia as part of the EU-Russia relations during the case of Crimea. Being arguably the strongest CFSP instrument, sanctions are usually seen as prevention tools and eventually punitive measures used by the EU to influence a behaviour of a state. However, on the other hand, sanctions might be considered causing supplementary problems for those uninvolved in the issue and protective behaviour of the targeted state. Moreover, in the context of a broader criticism of the EU's CFSP, the abusive westernisation process of third parties run by the EU should be kept in mind.

Consequently, it can be deduced that the EU will keep exercising a considerable influence on other political actors due to the strategic position it occupies in many fields of international relations. It also has a considerable chance to substantively contribute to improving the Russia-Ukraine relations. Nonetheless, its CFSP should be more concerned with long-term goals of

⁴⁷ Saurugger Sabine and Terpan, Fabien, 'Studying Resistance to EU Norms in Foreign and Security Policy' (2015) 20 *European Foreign Affairs Review*, p. 11.

⁴⁸ Francesco Giumelli 2013, *supra* note 43, p. 41.

preserving international peace and security, rather than imposing EU's values on other states. Moreover, the EU should prioritise its internal cohesion and not engage in external policies at the detriment of its harmony.