

*European Security Law*  
by Martin Trybus and Nigel D White  
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The book represents one of the rather rare attempts to analyse the development of the European Security and Defence Policy (ESDP) from a legal perspective. While much emphasis is commonly placed on the lack of political will and scarce European defence budgets to explain why the EU is still considered an infant security actor, this valuable collective work demonstrates that an adequate and consistent legal framework may significantly contribute to tackle the European and global security challenges ahead.

While the analysis is driven by the legal perspective, it is embedded in the relevant political science and international relations literature on ESDP, which allows this book to be considered as a 'bridge-builder' between disciplines. *European Security Law* may therefore be of great value for both lawyers with an interest in European security policy and policy analysts with an interest in international law.

The book is structured in three sections. The first section (Chapters 2 and 3) is about the past and the uncertain future. Chapter 2 offers, within the limits set by a book chapter, a very interesting overview of the ill-fated European Defence Community (EDC), a complete stranger despite being often referred to in the history of European integration. It is surprising to discover at the outset that the EDC was mainly a supranational organization, including a court with a substantial role. This is difficult to believe in the Cold War context, where the entire emphasis could be expected to be placed on military force and collective defence. Chapter 3 outlines the main relevant provisions of the now abandoned 2004 Constitutional Treaty. In this respect, and in contrast with other expected institutional reforms that are on 'stand-by', ESDP does not seem to depend on new constitutional developments. In any event, these early chapters have in common that they deal with major European treaty projects which did not become a reality. But they provide an excellent starting point to outline the legal issues at stake.

The second section (Chapters 4–9) discusses various aspects of ESDP such as crisis-management operations, the anti-terrorism dimension, armaments policy,

and collective defence. The reader might perhaps miss an introductory chapter in this section analysing the ESDP's institutional backbone, composed by the Council and a number of Council-controlled bodies, and commenting *inter alia* on the limited role of the EU High Representative—the perennial Mr Solana—the fragmented command and control of peacekeeping operations or the fact that military and civilian operations—those involving the deployment of police or judicial experts—are handled completely separately. The EU prides itself on its special ability to combine civilian skills and resources for reconstruction and development with military force for security. It makes no sense to separate the two in the planning and management of operations. The description of legal instruments, although comprehensive across the different chapters, is somehow fragmented.

The analysis in this part reveals however several important issues and findings. Chapter 4 offers a comprehensive analysis of the legal framework (mandate, legal status, and applicable law) of ESDP missions conducted at the time of writing, and clearly demonstrates the growing geographical and functional reach of ESDP missions. However, the reader may miss some more comment on the fact that there is little evidence of any coherent plan underlying the EU's interventions. Though the European Security Strategy provides a good set of general set of principles of objectives, this does not explain why, for example, five out of the nearly 20 operations have been in the Congo. Chapter 5 includes a (short) discussion of the applicability of humanitarian and human rights law to EU-led operations, a topic which, to the reviewer's knowledge, had previously received very little attention. The contribution on ESDP's anti-terrorism aspects (Chapter 6) correctly identifies the growing contribution envisaged for ESDP in this field while making equally clear that ESDP is not at the centre of the EU's counter-terrorism efforts. The chapter analysing the compatibility of ESDP and NATO (Chapter 8) may, despite its interest, be somewhat puzzling. Its main argument is that 'the EU should not pursue the idea of creating a traditional defence alliance' (p. 174). However, it does not seem that this is a core issue at stake in any event at present. Chapter 9 focuses on an examination of the emerging institutional framework of a European armaments policy in the light of recent developments in the field, namely the establishment of the European Defence Agency and the initiatives of the European Commission which is attempting to play a helpful role in practice.

The third section (Chapters 10–14) tackles the problem of the coherence and effectiveness of European security policy. A connecting thread between the authors in this and also in other sections is that the close cooperation and desirable consistency between the EU and other international organizations (beginning with the UN) would be convenient, but not indispensable: it is suggested that, legally and politically, the EU can act more independently.

Chapter 10 analyses different forms of flexibility and differentiation in the second pillar. This is a very useful contribution because of the underlying tension

between an alleged increase in effectiveness as a result of differentiation and the potential threat to the coherence of EU policy and legal order that such differentiation might cause. The author rightly concludes his chapter by stating that current forms of flexibility 'do not seem to be a threat to consistent external action' (p 248). Although somehow disappointing for supporters of European integration, it is perhaps time to move on from the traditional 'convoy' approach to accept the reality of multi-speed Europe. This is followed, in Chapter 11, by an informative treatment of ESDP in the context of EU external relations. The last three chapters in this section deal with the coherence of EU security policy with other international security frameworks, namely NATO, the OSCE, and the UN. The analysis in Chapter 14 of the relationship between the ESDP and Chapters VII and VIII of the UN Charter is of particular interest, especially its discussion on the hierarchy between the two systems and on the room for autonomous action on the part of the EU.

On the substance, and without ignoring the problems and failures of the ESDP, the book generally takes an unashamedly 'glass half-full' approach and provides a more promising picture than many current analysts. If the authors' call to ensure that ESDP is both supported and guided by the rule of law is heeded, it is likely that the ESDP will be a stronger instrument as a result.

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