

**Book Review: *Foreign Policy Objectives in European Constitutional Law*, J. Larik (Oxford University Press, 2016, ISBN 9780198736394); xxxiv + 323 pp, £70.00 hb.**

This monograph provides a unique comprehensive analysis of the European Union's progressive role in the system of global politics, governance and norms. The author employs a combined methodological approach of comparative constitutional law and international relations (IR) theories. He reconceptualises the classical IR and EU studies' analytical methods and theories in assessing the legal force, substance, role and effects of the constitutionalised foreign policy objectives, which are dispersed throughout the EU founding Treaties. The result of such an innovative interdisciplinary endeavour is a fascinating construction of the notion of foreign policy objectives in the 'European constitutional space', which offers part of the answer to the central ontological question of the book: what is the EU, where does it come from, and where is it (or should it be) heading?

The book encompasses developments of EU foreign policy since its very inception in the mid-20<sup>th</sup> century to the post-Lisbon era, operating amid a transformative dynamic of internal and external dimensions of the Union, in its normative, political, economic and security spheres. Structurally, the analysis of the EU foreign policy objectives is framed in a couple of coherent sections.

Chapter 1 introduces a comparative overview of the constitutional foreign policy objectives of both the EU Member States and a number of countries outside Europe, from common law and civil law traditions alike. The constitutionally enshrining international ambitions of a country represent progress in the evolution of the classical role of constitutions: from imposing limitations on public authority to prescribing guidelines for pursuing objectives of general interest. Important for their understanding is that entrenching foreign policy objectives as 'constitutional aspirations' came in parallel with the post-modern discourse of globalisation, rising interconnectedness, and the decline of the nation-state.

Addressing the origins and substance of these objectives and building on the examples of the three most prominent established national doctrines (from Germany, France, and India), the author in Chapter 2 identifies the main dynamics and trends in this field. He singles out two global phenomena which are observed as being present in 'conceptual rapprochement' (p 150): on the one hand the 'constitutionalisation' of goal-oriented provisions, and on the other the 'dynamic internationalisation' of constitutional law. In addition to these, the author recognises another major phenomenon at play in Europe: the 'Europeanisation' of

constitutional and statutory law (p 8). What is also apparent from this section is that there has been a certain degree of ‘constitutional cross-fertilisation’ and a rapid convergence of national doctrines on constitutional foreign policy objectives in the EU.

In Chapter 3 the author argues that the EU Treaties were, at the early stages of integration, ‘founded essentially upon the idea of attaining a certain set of dynamic objectives and permeated by teleology’ (p 129), in line with the characteristic of the ‘functionality’ of a classical international organisation. Precisely ‘behind these originally more technical objectives loomed a distant *finalité* of a political union’ (p 130), which was to be reached on the basis of the neofunctionalist ‘Monnet method’. This effectively modified the previously predominant economic nature of the EU, and through ‘evolving constitutionalism’ culminated in an ‘ever closer union’ as a meta-objective. As a particular subcategory of EU constitutional objectives come EU foreign policy objectives. Their peculiarity lies in their dispersion throughout the entire body of the EU ‘Foreign Affairs Constitution’: from the EU foreign economic dimension (common commercial policy) to the EU foreign political dimension (security and defence policy). They are legally binding and justiciable in a restricted manner, but rather serve as a device for constitutional interpretation: for instance, in drawing limits to the application of fundamental rights (restricting or reinforcing them) or in shaping the borders of EU competences (interpreting and clarifying rather than creating them). In a way, particular EU foreign policy objectives (for instance, fostering international security, the pursuit of international solidarity and development, the promotion of democracy, the rule of law and human rights) represent an attempt to ‘translate and extrapolate’ the EU’s internal values to the external arena (p 250). The author explains that EU foreign policy objectives perform three basic functions: authorisation, prohibition, and obligation (the difference existing in the dynamic ‘obligation to constantly pursue’, the goal-driven ‘obligation to reach a specific result’, and the static ‘obligation to permanently preserve’ a certain status). As the two main characteristics of EU foreign policy objectives, the author defines (p 161): (i) ‘optimisation’ of their pursuit, which is to be conducted in the most effective, yet flexible, way possible (eg through competence allocation on the basis of the principles of subsidiarity and proportionality, in light of constant changes and developments), and (ii) the ‘caveat of feasibility’, denoting the basic limitations of the pursuit of these objectives through a multilevel-governance entity in an interdependent world.

In Chapter 4, the author describes the practical challenges of the pursuit of the EU foreign policy objectives. The main issues at stake are: (i) ‘polyphony’, depicting pluralism in ‘multiple claims to ultimate supremacy and adjudicative authority in legal hierarchy’ (p 175) and diversity in multilevel ‘actorness’ (ie the Union and its Member States per-

forming on the international scene at the same time); and (ii) a quest for 'monophony' and 'harmony' by ensuring coherence in EU external policy. Here, what attempts to act as 'glue' for the coherence of EU foreign policy are: the 'principle of sincere cooperation' which constrains the Member States in pursuit of their own constitutional foreign objectives, and the principle of 'unity in international representation' which applies when both the EU and its members act in parallel in pursuing their respective foreign policy objectives (p 233). The author puts forward the following hard limitation to the pursuit of the EU constitutional foreign policy objectives: the constitutional identity of Member States which trumps the primacy of EU law and its foreign policy objectives. The EU Treaties thus intended to accommodate Member States' sensitivities by clearly distinguishing three core areas from other provisions of the EU primary law: legal subjectivity ('actorness'), and the security and defence policies of the Member States. Finally, the author highlights the EU Common Foreign and Security Policy as a specific competence area without a defined nature, where the 'fundamental nature of security as state interest' (p 243) triumphs over the interests of acting in concert through the EU political 'agora' (p 200). This often-mentioned 'original sin of the EU external action' (p 208) in effect renders the EU incapable of responding to the most serious international challenges, eroding its credibility and legitimacy on the international stage and reflecting itself internally through the ever-growing democratic deficit and alienation of EU citizens.

The most revealing part of the book is Chapter 5 which takes us from theoretical conceptualisation to the real-time global arena in observing the practical implications of EU foreign policy objectives. With the help of IR theories, the genuine 'power(lessness)' of these objectives and norms is revealed. The author challenges the real value of ideas, values and norms found in the EU Treaties, and its self-imposed laudable title of 'ethical/normative power' (p 243). The theory of realism thus renders the majority of the EU foreign policy goals as futile, while positioning the security of Member States as a primordial existential interest. The EU thus appears as an 'institutional repository of the second-order normative and ethical concerns of its Member States' (p 247). The theory of liberalism describes the foreign policy goals as 'ideologically embellished instruments of power' (p 255) manipulated by the institutional actors of all levels as justification for pursuit of their own selfish interests. Finally, in explaining the role of constitutionalised foreign objectives in the processes of 'socialisation' and 'identity-shaping', the theory of constructivism strikes a death blow for European federalists: it strongly asserts that 'Europeanisation' through ideas, values and norms may reshape identities and foster their convergence for the sake of internal and external coherence, but it cannot amalgamate them into a unitary structure, ie the European super-state (p 269). Likewise, the 'softer' declaratory foreign policy commitments of

Member States were successfully 'Europeanised' along the way, while divergent core Member States' interests and traditions kept rendering the EU foreign policy ineffective. Therefore, the general point is that an eventual genuine European identity may induce coherent policies, common norms and effective institutions; the reverse does not necessarily apply.

The author's analysis of foreign policy objectives in the web of transnational, intergovernmental and supranational processes and institutions is thorough and convincing. The interplay of the EU and national foreign policy objectives is positioned in the framework of EU constitutional pluralism. Several main conclusions may be rendered.

First, it is clear that Member States through the EU pool their sovereignties in certain aspects of their external relations, trying to benefit from the 'stronger voice' internationally when acting in concert. On the other hand, the EU itself tries to channel the individual ambitions of its constituencies and to pursue independently certain foreign policy objectives. In this, the EU attempts to establish a filtering-framework for managing and accommodating potentially conflicting national interests. In its individual endeavours, it does not aim to replace but rather supplement the Member States' foreign policies, without suppressing internal and external diversity.

Second, it is particularly important to emphasise the democratic dilemma as a particular caveat of the EU foreign policy approach, as the author does throughout his book. What remains questionable is the normative appropriateness and democratic legitimacy of EU institutions, processes, values and objectives included in the foreign policy domain. The legitimising function of the EU constitutional foreign policy objectives is contested both internally (whether they are self-acknowledged and democratically appropriated across the EU) and externally (alleged universality of the EU's global objectives and policies). There is an inherent paradox in constitutionally embedding certain foreign policy objectives, for instance the goals of regional integration or the promotion of 'universal' human rights, since in practice this runs counter to the very essence of the classical conceptions of nation-states' sovereignty and exceptionality, which in foreign affairs still preserve a fundamental role, even when acting within the EU framework. So the tough question remains: how genuine is (and can realistically be) the EU's call for '*bonum commune humanitatis*' (p 262)? As it may appear, many proclaimed EU values, vague and devoid of much substance, oftentimes appear as a fabricated 'normative lie' responding to the societal 'hunger for values' in Europe (p 25). Therefore, the most salient interest underpinning the entire EU foreign policy is still the pursuit of the common national good and objectives which materially benefit solely EU citizens; thus, *salus nationis* trumps *salus mundi*.

This timely analysis of the topic which has not been extensively explored thus far makes the book essential reading for everyone – students, scholars, policy analysts and decision-makers – interested in the EU’s international relations, policies, actions and commitments. The importance of the discussion is all the more pressing nowadays given the ever-(re)emerging contemporary international (security, migrations, environmental depletion) as well as internal challenges (‘Brexit’, integration fatigue), which all hint at the changing paradigm of EU foreign policy. The era of ‘post-truth’ politics, rising illiberal democracy, isolationism and protectionism on the one hand, and the rejection of collective security arrangements, trade liberalisation, social diversity, global mobility, and concerted action against climate change on the other, in an unprecedented way challenge the very core of the proclaimed EU foreign policy objectives. This contemporary trial will demonstrate whether the constitutionalisation of EU values and objectives is indeed an irreversible process. Therefore, the timing of this scholarly contribution is more than appropriate, for everyone to bear in mind what the EU should actually stand for, internally as well as internationally.

Davor Petrić

*University of Zagreb – Faculty of Law*