
SEHNÁLEK, David. *Vnější činnost Evropské unie perspektivou práva unijního a mezinárodního* (External Action of the European Union from the Perspective of Union and International Law). Brno: Masaryk University, Faculty of Law, 2016, 242 p. ISBN 978-80-210-8340-0

The new book written by David Sehnálek focuses on legal issues of EU external relations and it may be considered as exceptional from at least two perspectives. First of all, even though there is a solid base of political science books on EU external relations, there is a strong lack of legal literature focusing on EU external relations written in Czech. Thus, due to its perspective the reviewed book complements the book of Pavel Svoboda from Charles University in Prague¹ or a series of studies on various aspects of EU external relations law regularly published at the Faculty of Law in Olomouc.² Except the EU common commercial policy or EU external economic law³ it is hard to find any other comprehensive resources on the legal issues of EU external action in Czech.

More importantly, the book is exceptional also with regard to its structure and actually the content. It does not cover the whole systematics of EU constitutional and institutional external relations, nor “substantive” EU external law, but it takes a specific perspective focusing on the cohabitation between EU law and international law. This requires a profound knowledge of both branches of law.

In the introduction the author explains the concept of the book and the research perspective thereof. He primarily intended to focus on the question how the international law influences functioning of the European Union externally, that is especially *vis-à-vis* third countries. By this focus the author intends to overbridge the common practice of books shaping the EU as a specific and

¹ SVOBODA, Pavel. *Právo vnějších vztahů EU* (EU External Relations Law), C.H.Beck, Prague, 2010.

² F.e. STEHLÍK, Václav. *Studie z práva vnějších vztahů Evropské unie* (Studies in EU External Relations Law), Palacký University in Olomouc, Olomouc 2016.

³ ROZEHNALOVÁ, Naděžda. *Právo mezinárodního obchodu* (International Trade Law), 3rd ed., Wolters Kluwer, Praha 2010.

unique entity with dominance over law of Member States without a sufficient accent on what it is (or appears to be) viewed from the “outside”. Admittedly this third-country perspective is more evident in research of the authors who have an international law background.

Based on this perspective the main issues which are accentuated in the book concern the dilemma whether it will be the EU or its Member States who will have the competence to act in external relations in individual issues, how decisions will be reached, which legal acts will be employed and who will bear the responsibility therefore. To fulfil these aims the author focuses on the definition of external action and systematics of regulation in EU primary law. He introduces the principles of EU external action and traces how they penetrate into various EU policies. In that regard he criticises the regulatory fragmentation of EU external activities. This can be demonstrated, among others, by the regulation of Common Foreign and Security Policy (CFSP) which is covered not only in the EU Treaty, but also, unsystematically, in the TFEU (art. 2, para 4). The author also analyses various duplicities of lay-out of EU external action (f.e. definition of aims and values which must be respected in external action).

A special attention is paid to the institutional background linked to the external action and evaluation of balances among various institutions in the context of external activities. One of the issues discussed is the limitation of the competences of European Parliament in some external activities. In this stanza the author discusses the democratic legitimacy of these activities with the view of limited powers of directly elected Parliament. A similar discussion is led in relation to the powers of the European Court of Justice, among others, in relation to its competences to *apriori* control of their compliance of envisaged EU external treaties with EU primary law. A special attention is paid to the correlation of TEU and TFEU in the process of adoption of restrictive measures to other international actors. These measures very often relate to the common commercial policy covered by the TFEU, but their roots are in the ambit of Common Foreign and Security Policy (CFSP) which are regulated in TEU. The author then analyses how this nature is reflected in the competences of various EU institutions, especially the European Parliament and Commission. Actually CFSP is in detailed covered in a separate subchapter, including characteristics of EU competences (intergovernmental versus “Community” methods of regulation). The author depicts legal instruments of CFSP and compares the nature of decisions adopted within CFSP and in other EU policies.

A separate chapter is devoted to the Common Security and Defence Policy (CSDP) which deals, among others, with the relations between EU and NATO where he actually preceded a currently intensified debate on common EU

defence system (recently especially European Defence Fund and a proposal of EU Commission of Regulation for a European Defence Industrial Development Programme⁴). The chapter also categorises and exemplifies treaties concluded within CSDP and the institutional background.

An interesting chapter is devoted to the Common Commercial Policy (CCP) which defines individual categories covered by the CCP, such as the goods, services, intellectual property rights, direct investments, customs duties, and analyses in general the various measures available in the area of CCP. In detailed he describes individual aims of CCP, legal regulation, competences, role of EU institutions and especially links to national regulation, namely its reflection in the Czech legal order. The chapter also covers other areas of EU external action, namely cooperation of EU with the third countries and humanitarian aid.

A concise analysis is devoted to the various legal tools used in EU external action with a special emphasis put on EU external agreements, including mixed agreements and the problem of parallelism between EU internal and external competences. The author calls for the use of the term “complementarity” instead of “parallelism” in this regard as this term more precisely fits the relation of EU implicit external competence to the explicit internal competence. The chapter covers also other problems linked to EU mixed agreements, including their interpretation, conclusion and application. A special attention was paid to the parallel agreements in contrast to classic mixed agreements.

Last but not least, independent chapters are devoted to the binding character of EU external treaties for the EU as well as its Member States and to international and EU responsibility. A distinct attention is paid to the relationship between EU law and public international law. This includes especially direct effect of international customary law and EU external treaties. A subchapter is devoted to direct effect of decisions of international organisations where the author touches, among others, the character of decisions of Association Councils or Dispute Resolution Bodies set up by external agreements.

In the final and overall evaluation of the book the following closing considerations may be made. As is evident from the outline made above the book is quite inclusive, but still selective as far as the topics which are covered. The book is not only a very fine complement to the few Czech books on this topic, but in some aspects it goes beyond and brings in the debate the topics frequented in the international academia. All conclusions made in the book are based on a very

⁴ Proposal for a Regulation of the European Parliament and of the Council establishing the European Defence Industrial Development Programme aiming at supporting the competitiveness and innovative capacity of the EU defence industry, COM(2017)294.

solid analysis of national and international resources both in the EU and international law. It is highly appreciated that these topics were gathered under one hat and for sure they will be useful both for the Czech researchers and students.

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