

European Union Law and Defence Integration. By M. Trybus. Oxford and Portland: Hart Publishing, 2005. liv + 419pp. Hb. £55.00.

With the Treaty of Nice (2001) a security and defence policy (ESDP) finally became part of the competencies of the EU as a subdivision of the Common Foreign and Security Policy (CFSP) introduced by the Maastricht Treaty in 1992. While neo-functional integration theories might have expected this to happen much sooner, many Member States were (and still remain) hesitant to hand over any powers in this area. Reasons can be found in the close connection between defence policy and the sovereignty of the state as well as in a fear to undermine NATO. This has resulted in a number of compromises which, in turn, raises the question of whether security and defence policy has really been integrated in the legal structure of the EU.

This question is central in the book under review here. In a comprehensive study, Martin Trybus describes and analyses all possible relations between EU law and defence (or rather, military) issues. While Trybus himself has been a prolific writer in this area, many of the issues have only now been presented in a coherent fashion. Indeed, the relationship between European law and defence has never made it to the handbooks and only a handful of writers has been active in following what has long been a 'taboo issue'. After all, in the eyes of many, 'supranational' Community law and military integration is a dangerous combination. Even the introduction of CFSP—in a clearly less supranational form of cooperation—did not provide enough reassurance to include a defence policy, let alone an arrangement for a common defence.

The coming of age of ESDP and, in particular, the text of the Constitutional Treaty—in which the Community, CFSP and ESDP were combined in one single treaty—have triggered a new debate, in which the current fragmentation of the EU's external policies is increasingly questioned. Indeed, it is the fragmentation of the European defence and security architecture that seems to worry Trybus most. It is time that—after more than 60 years of political debate—we accept the only feasible solution: '[A] "European Security and Defence Union" comprised *inter alia* of common military structures, a European Reaction Force, a mutual defence guarantee, a European Defence Agency, and a set of rules to harmonise the defence laws of the Member States . . .' (at 395). This is a far-reaching conclusion indeed, but in order to dare to make this statement, Martin Trybus has addressed and analysed the relationship between EU law and defence integration from almost every possible angle. He has done so by dividing the study into three parts: 1. the evolution of European defence integration; 2. Community law as an instrument of European defence integration; and 3. European defence integration under the Constitutional Treaty.

Whilst the history of European defence integration has been analysed by others, in the first part Trybus succeeds in showing that almost all problems we are facing today can be traced back to political (and legal) choices that have been made directly after the Second World War (the creation of the Western European Union, the failure to establish a European Defence Community); during the economic development of the Community and its internal market (of which security and defence issues were not a part); and, with the half-hearted introduction of a common foreign and security policy that did not include the necessary steps in relation to military issues.

Part II is the pivot of the book and addresses the classic—but still unresolved—tension between the Community objectives (basically related to the internal market) and the exemptions claimed by the Member States in the area of security. Trybus describes how a balance is struck in the area of free movement and the public

security exemptions ('a fine balance'); in relation to armaments, secrecy and the famous Article 296 EC ('an even finer balance'); and in relation to Article 297 EC and Community law in times of crisis and war ('the finest balance'). Trybus concludes that the security exemptions do not form a reason to conclude that Community law and defence issues are entirely different worlds and that they do not represent automatic or categorical exclusions. On the contrary, Community law is an instrument of defence integration, albeit within the limits of the security exemptions. This is not only visible in the area of defence procurement (one of Trybus' specialisations), but also in other aspects of defence, such as competition law, merger control, state aids, transfers and exports of armaments and dual-use goods, or even in rules on sex equality in the armed forces.

The signing of the 2004 Constitutional Treaty caused a dilemma for many authors in the field: should it be taken into account and, if so, will parts of the study dealing with it become superfluous after the decision to abandon the Constitutional Treaty in favour of the Reform Treaty? Martin Trybus was obviously faced with this dilemma but decided to include an extensive analysis of the Constitutional Treaty. One may argue that this part will still have to prove its added value. However, this reviewer would argue that there is some sense in including an analysis of the Constitutional Treaty for two reasons: first, it reflected the state of integration at the time it was agreed by national governments; second, it provides an opportunity to make suggestions for improvement. The latter is exactly what Trybus does. He argues that the Constitutional Treaty offers some clear steps forward where diminishing the fragmentation is concerned, but that some obvious steps have not been taken. Both CFSP and ESDP are still treated on a different basis than the (original) Community areas, in terms of decision making and voting modalities, as well as in relation to the role of the institutions. Even the tension between the internal market and the national security interest has not been solved. Trybus presents seven points on which the Constitutional Treaty could be improved in the area of foreign, security and defence policy in relation to Community law. The bottom line of his arguments seems to be a further 'communitarisation' of foreign, security and defence policy. A bold conclusion indeed, but one that logically follows from a thorough and comprehensive analysis of European defence integration from 1944 to 2004.

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Legal Foundations of International Monetary Stability. By Rosa M. Lastra. Oxford: Oxford University Press, 2006. 600pp. Hb. £116.00.

Few books are available that deal with the legal framework underlying international monetary stability (this is true at least both in the English and in the French legal literature). There may be many reasons for this scarcity. One that can be identified is that when dealing with this topic, it is difficult to avoid economics and politics, two subjects many lawyers avoid, either because they fear not to have sufficient knowledge in economics, or that their writing will lack the legal content that a learned law book ought to contain. Dr Lastra has successfully managed to give a robust legal content to her book without avoiding the inevitable issues of economics and politics that the subject of her book requires. Her work will undoubtedly be a reference book on the subject.