

*International markets regulation and the erosion of the European political and social model. La regulación internacional de los mercados y la erosión del modelo político y social.* By L.M. Hijoñosa Martínez & P.J. Martín Rodríguez (eds.) (Thomson Reuters Aranzadi, Cizur Menor, 2019) 373 pp.

This book summarizes the main scientific results achieved with the Research Project DER2014-57213-R financed by the Spanish Ministry of Economy, Industry and Competitiveness, led by the renowned International Law professors Hijoñosa Martínez and Martín Rodríguez from the University of Granada Law School. The thirteen contributions are written in English and Spanish.

The starting hypothesis of the book is the idea that the technical regulation of markets is not objective, since any ‘technical’ decision reflects an ideological approach and has (positive and/or negative) social consequences. Both international law and European law impose significant constraints on the legal framework governing markets and limit the sovereign powers of states to regulate them. This situation has been exacerbated by the measures imposed by the EU to alleviate the economic crisis of 2008 that limit fundamental rights of citizens. The book analyses whether these restrictive measures eroded the European social and political model, and to what extent the international legal framework reinforces this trend. In doing so, the book scrutinizes the position of the individual and of their fundamental rights vis-à-vis the markets.

The book is divided into three parts. The first three chapters analyse the effects of the regulation of financial markets on the social model. The chapter 1, written by prof. Hijoñosa Martínez scrutinize three paradigmatic examples of European financial reform (the recovery and resolutions of banks, the financial transaction tax and the limits on the remuneration of bank executives) in order to verify the degree to which fairness and maximization of social welfare are taken into account. The author concludes that the drafters of these EU rules have prioritized financial stability over the articulation of instruments generating more distributional effects. The efficient functioning of the financial markets is necessary to uphold a competitive economy, but, following the author, the EU financial reforms must be more sensible to take social rights into account.

In chapter 2, Justo Corti revises the feasibility of the creation of fiscal capacity within the EMU as a macroeconomic stabilization instrument. He explores also the limits that the no bailout golden rule, established by article 125(1) TFEU, impose to the solidarity between Eurozone countries. Jorge Urbaneja supports in chapter 3 the creation of a European Monetary Fund to move towards a genuine mechanism to share risks in EMU. It reaches this conclusion after a careful analysis of the EMU reform since the economic crisis. In particular, it reviews the European Stability Mechanism, the Stability, Coordination and Governance Treaty, and the banking union.

The part II of the book comprises chapters four to nine, aimed at study the relationship between the regulation of international trade and the social model. Both chapter 4 and 5 are dedicated to the Comprehensive Economic and Trade Agreement between the EU and Canada (CETA). Professor Segura Serrano analyses the trade and regulatory issues generated by CETA and Ozana Olariu studies more critically CETA's Investment Court System for foreign investor as other version of the classical Investor-State Dispute Settlement (ISDS). Chapter 6, written by Rafael Leal-Arcas underlines the stagnation of the multilateral trade system and proposes a bottom-up approach for its reform with greater citizen participation in order to win the race of energy transition from oil dependence to clean and removable energies. Augusto Piqueras García analyses in chapter 8 the dialectical relation between trade liberalisation and the protection of national culture, distinguishing cultural goods and goods, protected through justified export control, and services produced by the cultural industry, protected through protectionist quotas and subsidies. In chapter 8, Rael Marín Aís studies the feasibility for the EU to use the so-called 'economic diplomacy' to export its social values to third countries. After an analysis of the new generations of the EU trade agreements, the reformed instruments of trade defence, the measures fostering social corporate responsibility and the EU's Generalised System of Preferences, he concludes that it concludes that the EU is an actor socially responsible compared to other countries. Finally, Claire O'Brian and Olga Martín Ortega scrutinize the public procurements as a tool for the promotion of human and labour rights in Chapter 9. They propose the transition to a new 'sustainable' public procurement model to better protect the European social model. The current EU public procurement rules safeguard competition and equal treatment between bidders as primary objectives.

Finally, Part II of the book is composed by four dealing with the influence of market regulation on the political model of European countries. In Chapter 10, Carmela Pérez Bernáldez examines the instrument built by the EU to promote and protect the rule of law among the member states. She reviews the powers of the EU institutions to promote the rule of law and she points out the new ECJ's case law concerning the judicial independence of the national judges as an indispensable tool to protect the rule of law. The Chapter 11 is a stimulating work written by Pablo Martín Rodríguez on the ECJ's case law about measures adopted to counter the financial crisis and their consequences for the respect of the rule of law. The explanation is structured around three main axes: the principle of legal certainty, the protection of fundamental rights and the judicial protection of fundamental rights and legitimate expectations. The balance is negative and he concludes that the European responses to the crisis have had a negative impact on essential elements of the rule of law, both at the Union's and the Member States' level. The reasoning he develops is based in a careful analysis of the ECJ case law and the legal doctrine. In Chapter 12, José Antonio Soler Arrébola studies the extent to which collective bargaining instruments serve to transfer social rights from Europe to third countries, in

particular signing international framework agreements that regulate the activity of European companies abroad. Maribel González Pascual exposes in Chapter 13 the role of national constitutions as the last resort guarantor of fundamental social rights when the EU adopts measures against the crisis that restrict social rights. She criticises the application of EU Character of Fundamental rights by the ECJ in the case law related to EU austerity measures, but she also points the problems experienced by some constitutional courts of the EU Member States to protect social rights against these austerity measures.

In conclusion, the book coordinated by professors Hijonosa Martínez and Martín Rodríguez provides an interesting analysis of some of the most relevant legal questions generated by the austerity measures adopted by the EU against the economic crisis and its negative impact on the rule of law and the preservation of social rights. The aim of the book was ambitious, but the challenge is met. Some contributions are more related than others to the core subject of the book, but it is usual in collective books. In any case, I would recommend reading this book to anyone interested in deepening the relationship between the regulation of the international markets and the protection of fundamental and social rights and the preservation of the European social model. In addition, in the Spanish legal doctrine there is a lack of work on this subject and of this quality. For all the above, I congratulate my colleagues Professors Hijonosa Martínez and Martín Rodríguez and all the contributors for his relevant and useful work on a technical and difficult subject, and I highly recommend reading it.

Manuel LÓPEZ ESCUDERO

Professor of Public International Law, University of Granada  
Legal Secretary, Court of Justice of the EU, Luxembourg