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Francisco JIMÉNEZ GARCÍA, *Derecho Internacional Líquido ¿Efectividad frente a Legitimidad?*, Thomson Reuters Aranzadi, Pamplona, 2021, 331 pp.

The book, *Liquid International Law: Effectiveness versus Legitimacy?* is difficult to classify, as it offers an infinite variety of approaches to the challenges facing international law today. If we take its subtitle as the key to understanding this work, -Effectiveness versus Legitimacy?- it takes us into its different chapters, bearing in mind that what matters most to the author, Francisco Jiménez García, is how to reconcile the stability of traditional institutions and the flexibility of new law-making processes, insofar as constitutional values, democracy and the rule of law may be compromised. To this end, the author tests the legitimacy and effectiveness of soft law in the first two chapters and, in the remaining chapters, the new normative categories provided for in the Spanish Law 25/2014 of 27 November 2014 on Treaties and other international agreements.

This book was born from the proposal of a lecture made by its author at the invitation of the organisers of the International Law and International Relations Courses of Vitoria-Gasteiz, in its 2019 edition, which was entitled *"Overcoming Art. 38 of the Statute of the International Court of Justice: Soft Law, political agreements and other rules of the pile. Reflections from democratic postulates"*.. In addition to being provocative, its title was intended to pay homage to the title of a film by Almodovar. His aim to address the informal procedures for the creation of international norms led him to go beyond art. 38 and focus on what he calls "the invasive universe of soft law". However, and without wishing to disagree with the author, but rather to respond to the dialogue that he intends to create with his work, I consider that his study also goes beyond soft law: hence the title of his book on liquid international law, because his aim is to expose the challenges posed by international law from the different subjects that the author has tackled in his long and engaging research career.

From the initial reading, it is to be expected that he will deal with soft law as a phenomenon of its own that fits into his proposal for "legal futurism" and global liquid law. His metaphor of soft law as magma used by political-legal operators to reach all subjects and effectively achieve their purposes, leads him to abandon the traditional normative framework to enter into new scenarios in which international civil society also participates. Thus, as he says, "in the face of an impossible multilateralism and a totally outdated binary system, multipolarity is preferable, a system of plural organisation in terms of legality and enforceability that leads us to ask ourselves whether the international law of Article 38 of the Statute of the International Court of Justice is still useful and impels us to the urgent need to reformulate the structural principles of an international constitutional law beyond the states, but more recognisable for citizens" (pp. 17-18). As the author acknowledges, the Baumanian liquid nature of this international law is not limited to soft law but "persists in old acquaintances such as political agreements and non-normative agreements. Alongside the phenomenon of the modelling and standardisation of agreements, which is very close to soft law, states and international

organisations continue to resort to the longed-for and discretionary political agreements in order to avoid all democratic control and judicial supervision" (p. 18).

Liquid law, like Z. Bauman's liquid time,[36] is built on speed and rupture with the past. Thus, in its first chapter entitled *"Legal Futurism and Global Liquid Law. Soft law: from pre-law to para-law"*, the author reflects on his personal readings of key authors of legal dogmatics and sociology, in order to seek answers to better understand how international law is advancing in the face of constant changes that affect both its rules and its institutions and the relationships established between its subjects, who are increasingly exposed to the action of international actors. It therefore attempts to unravel the definition and functions of soft law insofar as it attributes a crucial role in the management of change and social needs to be translated into new norms that have hitherto been reserved for constitutional and international levels. Moreover, given the risk of the growing fragmentation of the international legal order and its sectoralisation, effectiveness replaces legitimacy as a response. Thus, "the danger of fragmentation and thus uncertainty for the addressees of the norm is not primarily a question of legally binding versus non-legally binding norms; rather, it is a question of effectiveness" and therefore, "today, this programmatic and proactive spirit runs through the great declarations that seek to transform our world" (p. 67). The list of declarations that the author enumerates and then analyses throughout his monograph is based on a very personal vision of international law to which he has devoted most of his previous research work, and includes: the Millennium Development Goals, the Sustainable Development Goals and the 2030 Agenda, the Guiding Principles on Business and Human Rights, the Guiding Principles on Extreme Poverty and Human Rights, and the New York Declaration on Refugees and Migrants. By way of reflection and conclusion on his analysis in this first chapter, the author does not fail to note that despite rapid changes that seek effectiveness, the key remains "the equitable legitimacy of international normativity, as states tend to comply with commitments, binding or non-binding, that are perceived as substantively and procedurally fair" (p. 75).

In his second chapter, *"Normative soft law: the interpretative, technical and policy dimensions. Global international administrative law"*, the author continues to elaborate on soft law, to address four main issues. Firstly, the author discusses the functions of soft law to highlight, in particular, its contribution to the formation of an 'international legal culture' of human rights that has been embraced by the Constitutional Court and the Supreme Court in Spain and also by international human rights jurisdictions. It is worth pointing out that the author considers soft law as a determining factor in the constitutional nature of the principle of evolutive interpretation in the European Court of Human Rights and the Ibero-American Court of Human Rights, after analysing their recent jurisprudence in which they apply soft law instruments on a wide range of subjects. In second place, the author examines "technical standardisation through normativised soft law" and its impact on state legislative policies to denounce "the replacement of democratic participation by technocratic participation", in highly technical international bodies, among which the Financial Action Task Force (FATF-FATF) stands out. Thirdly, the author examines "the normative underworld of EU soft law" as a specific sub-regime

[36] Z. BAUMAN, *Tiempos Líquidos: Vivir una Época de Incertidumbre*, Tusquets, 2008.

within the European legal order, which threatens an increasing agencification of the procedures in which EU agencies intervene with procedures that go beyond mere recommendation, even if they are expected "to be taken up by the Court of Justice of the EU and national courts, it must respect the parameters of the rule of law (p. 123). Fourthly, the author adds in this chapter what could be considered a chapter or monograph in itself, namely the relationship between soft law and so-called "international/global administrative law" and whose identification may give rise to debate in the doctrine.

The third chapter is devoted to the study of *Political agreements and non-normative agreements in the framework of non-legally binding agreements. Analysis of case studies*. In this chapter, the author moves away from the category of soft law to look at new typologies of international treaties which raise questions as to their legal nature or otherwise, in particular, political agreements, non-normative agreements as defined in the Spanish Law on Treaties and model agreements proposed by organisations such as the OECD to harmonise or standardise the regulation of different subjects. After considering the possibility of applying the Vienna Convention on the Law of Treaties to this typology of instruments, the author goes on to study different political agreements, presenting a selection of cases. Firstly, he analyses the legal nature or otherwise of one of the most interesting cases: the Joint Comprehensive Plan of Action -also known as the Iranian nuclear deal- that was signed by the European Union, Germany, China, the United States, Russia, France, the United Kingdom and Iran, approved by the United Nations Security Council and then unilaterally abandoned by the United States. After its examination, the author poses and answers the question whether "even if the Security Council cannot, in principle, convert a political agreement into an international treaty, by unilaterally denouncing the "twitter president" Trump, would it not be in violation of binding obligations under Article 25 of the UN Charter emanating from UNSCR 2231?". Then, the author studies the Spanish Law 25/2014 of 27 November 2014 on Treaties and other international agreements and after noting that it does not differentiate between the different variants and modalities of such agreements, he goes on to deal with an important variety of cases taken from Spanish foreign action, which have in common their political interest and the fact that the author's reflection can be applied to all of them when he recalls that "States long for the strictly political nature of the government's external action and, in particular, for the freedom they had, based on political opportunity, to enter into international treaties free from parliamentary controls and, above all, from any judicial oversight; the longing for the treaty as a political act by essence and an indisputable government strategy" (p. 190). The chapter continues with an extensive case analysis -from military agreements to Brexit- to show the criteria that international jurisprudence and practice have adopted to distinguish political agreements.

The fourth chapter is entitled "Human rights, the status of the armed forces, non-state actors and peace agreements: their compatibility with political settlements". In it, the author once again examines, through case studies, international agreements that break the mould of international treaties and raise various problems of normative and political coherence. Thus, through the analysis of the Agreement between the member states of the European Union and Turkey, the military agreements that regulate the status of the Spanish armed forces abroad, the agreements of non-state entities such as the autonomous communities or the cities, or the Colombian Peace Agreement, the author will highlight its political content, which conditions its normative structure.

The fifth and final chapter deals with *"International administrative agreements: typologies and subterfuges. The legal instruments of financial rescue in the European Union"*. In it, after noting that there is no reference to international administrative agreements in the Vienna Convention and that international practice is very diverse, the author returns to the Spanish Law on Treaties to start from "a singular definition of international administrative agreement that has generated a certain doctrinal controversy insofar as it proceeds to qualify it by means of an oxymoron (...): It is an international agreement that is not an international treaty even though it produces international obligations and is subject to international law" (p. 277). Based on this definition and the contradictions it presents, the author will carry out a study of various cases to highlight them. To close the chapter and this interesting monograph, he addresses "the instruments of legal engineering of financial rescue in the Europ ean Union and the ductile world of memoranda of understanding".

Based on this definition and the contradictions it presents, the author carries out a study of various cases to highlight them. Closing the chapter and this interesting monograph, he addresses "the instruments of the legal engineering of financial rescue in the European Union and the ductile world of memorandums of understanding", which show that in the process of European integration, the instruments of international law are also used when the exercise of sovereign rights is compromised. This helps the author to reflect on the economic reforms following the financial crisis of 2007 and whether "the legal framework and procedures generated around the European Stability Mechanism are fully in line with the principles of democratic legitimacy, respect for human rights and the rule of law" (p. 314). This is an interesting conclusion to a book that stands out for opening a debate with the reader to share the author's vision of international law, a debate full of provocation and exemplary case studies of an international normative reality in profound transformation.

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