

Editorial – Challenging Times

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European leaders met in Rome in March 2017 to mark the 60th anniversary of the Treaty of Rome establishing the European Economic Community. In projecting a message of unity, the Rome Declaration issued at the meeting also spoke candidly of a European Union facing ‘unprecedented challenges’. Indeed, an earlier Declaration in Bratislava in September 2016 admitted that ‘The EU is not perfect but it is the best instrument we have for addressing the new challenges we are facing.’ These challenges come from both outside and inside the EU.

The internal challenges are clear, not least from, the authorship of these two declarations: the leaders of 27 of the EU’s current 28 Member States. The EU is getting used to the idea of being an ‘EU27’ with European leaders meeting in European Council formations of all Member States as well as in formations where the United Kingdom is not represented. Negotiations on the UK’s withdrawal from the EU are underway, with the Article 50 TEU process determining some of the structure and timeframe of those talks. Not surprisingly, the challenge of Brexit is reflected in some of the contributions to this year’s volume of the Yearbook. From a constitutional perspective, Nikos Skoutaris reflects on the possibilities for Northern Ireland and Scotland remaining either in the EU or in the single European market. Michael Cardwell highlights the enormous impact that Brexit will have on agricultural policy in the UK. But there is also a whole series of challenges beyond Brexit.

In their detailed analysis of ‘illiberalism within’, Laurent Pech and Kim Lane Scheppele draw our attention to the internal challenge facing the EU from threats to the rule of law in Poland and Hungary. Like Brexit, this is a situation that unfolds on a daily basis with new twists and turns as the EU ponders whether to instigate the Article 7 TEU procedure because of a serious and persistent breach of the Union’s values. If Brexit is a moment for the EU to commit to its unity and to its values, then its response to the situations in Poland and Hungary is a clear test of that commitment.

Meanwhile there are the quotidian challenges of European cooperation whether in the form of the continuing repercussions of the financial crisis that began a decade ago, or the pressures of managing free movement of people. Marco Bodellini’s contribution asks what lessons we can learn from bank restructuring in Greece and Italy. Christian Franklin takes the analysis of free movement of people outside of the EU context to consider how the European Economic Area agreement operates.

One of the real advantages of a Yearbook is the capacity to produce discussions around topics over the years. Two of the contributions in this year’s volume reflect themes that have been explored at different times by contributors to the Yearbook.

Orla Lynskey's article on the Europeanisation of data protection law and Rebecca Zahn's analysis of the posting of workers carry on these important conversations.

The treatment of workers and the influence of the EU on their treatment is the subject for analysis by Jeff Kenner and Katrina Peake. But their focus is on the EU's external governance and the capacity of the EU to generate experimentalism aimed at improving worker conditions in Bangladesh. The EU's external dimension has often been understood as the primary arena for 'conditionality' as a tool of governance. In her study, however, Viorica Viță encourages us to look closer to home and the increasing use by the EU of conditionality when it comes to spending from the EU budget.

The challenges facing the EU are also institutional and constitutional. Daniel Sarmiento evaluates the significance of changes to the judicial architecture of the EU, with the enlargement of the General Court. Meanwhile Fernando Mendez and Mario Mendez appraise both recent and longer-term experiments in 'direct democracy' to consider whether citizens' initiatives and referendums hold out either perils or promises.

These are challenging times for the European Union and the Yearbook will, as ever, continue in its mission to offer authors and readers a space for sustained reflection and conversations about these challenges. On behalf of the editorial board of the Yearbook, I am pleased to recommend this year's volume. The editors would also like to express their sincere gratitude to Sue Tuck who has overseen the production of the Yearbook and who is leaving Cambridge University Press after 46 years. As ever, we are indebted to Sally Thomas for her professionalism in copy-editing the Yearbook.

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