Book Reviews

I. Cameron, ed.


This anthology, which is the product of a conference organised by Professor Iain Cameron at Uppsala University in the fall of 2011, deals with targeted sanctions decided by the European Union (EU) acting on its own initiative, i.e. without being impelled by a resolution of the United Nations Security Council. Such sanctions are thus a matter of EU law, even though they still must conform with international law. The book contains contributions by a number of scholars, only some of whom specialise in EU law as such, and provides some new impetus to a long-running debate. It amply illustrates that targeted sanctions raise several thorny, and unresolved, issues of law and policy, some of which go to the heart of the legal orders involved.

The title of the book is open-ended and as such not overly informative. As is clear already from the relative slimness of the volume it does not offer a systematic or comprehensive treatment of EU sanctions. In particular, and as is perhaps to be expected from a work on EU law, the international legal aspects are treated rather cursorily. The selection of topics is somewhat eclectic, including interesting contributions on the impact of sanctions against terrorism on freedom of expression (by Thomas Bull) and the proscription of organisations in UK counter-terrorism law (by Sophia Marques da Silva and Cian C. Murphy).

As indicated by the volume, it appears in a series on supranational criminal law; however, the main focus of the book is the importance of the law of criminal procedure for EU targeted sanctions (“restrictive measures” in EU legalese) for combating terrorism. The nature of the relationship between these bodies of rules is unclear as a matter of law and controversial as a matter of policy, and several contributions deal with this matter. The main thrust of the book may be described as exploring the possibilities of fitting blacklisting sanctions into a criminal law framework.

The editor’s preface gives a general legal and historical background to the complex problem of targeted sanctions. Cameron has a long and well-documented interest in – as well as some strongly held views on – targeted
sanctions as a matter of both international and EU law, and his contribution is candid and informative.  

As sanctions are as much a matter of high politics as of law, Mikael Eriksson’s international relations oriented contribution on the assessing of targeted sanctions blacklists is well placed by way of introduction to the subject.

In his contribution, entitled “Developing multiple EU personalities: Ten years of blacklisting and mutual trust”, Torbjörn Andersson outlines the procedural developments in the EU courts, and draws some thought-provoking conclusions from them: “As the law stands today in respect of external blacklisting, it is clear that the EU judiciary now exercises full judicial review... As to internal blacklisting the review is more limited, but the limitations are qualified by the existence of a reviewable decision...” (p. 94). This could well lead to “a complete disarmament of the blacklisting regimes” and direct “EU measures against terrorism along the only sensible path, that of ... criminal law...” (p. 95).

While I readily agree with Andersson’s assessment of the law as it stands, I reserve judgement on the larger policy issues raised by it. Suffice it to say that whether the disarmament of the EU as an international actor is a good thing depends on several variables. For example, one may not appreciate the EU turning itself into a super state in the first place, in which case this development is to be welcomed. More basically, one may differ as to the extent to which the world remains a dangerous place, and if so why. Among liberal-minded lawyers, the threat of terrorism seems to be commonly perceived as exaggerated, if not imaginary, or at any rate self-generated on the part of certain states. History would seem to suggest, however, that there may be security threats that cannot or should not be met with complaisant behaviour. Nor is it clear that criminal law is or could be made sufficient to deal with all politically motivated challenges to the existing order. Whichever position one may take on such issues, the appropriateness of having matters of foreign and security policy decided by supra-national courts is debateable. Neither am I convinced that judicial activism, as suggested by Andersson, is likely to generate increased trust in the EU-project outside the circle of the

---

1 Cameron makes his own basic view clear, stating (p. 15) that “[the UN Security Council blacklist] were an injustice which struck at the heart of an international lawyer’s commitment to international law”. This sentiment is shared by Torbjörn Andersson, who calls blacklisting a “disgrace” (p. 95). It may be noted that this author has presented a rather different perspective on the matter in these pages, see F. Stenhammar, ‘United Nations Targeted Sanctions, the International Rule of Law and the European Court of Justice’s Judgment in Kadi and al-Barakaat’, 79 NJIL (2010) pp. 113–140, at p. 120.