

has led to a diverse set of NEBs: they deal with a plethora of equality issues with varying competences and enforcement capabilities, as well as institutional roles within the domestic legal system. NEBs' competences and economic resources are often limited, their mandates only cover some grounds of discrimination, and they experience difficulties in their institutional access to the European level. As a result, Gennusa concludes that these bodies only perform their role in a 'partial and incomplete' manner (198) and generally do not reach their potential of promoting equality and combatting all forms of discrimination.

The final contribution to the collection comes from Simona Granata-Menghini and Stefania Ninatti, focusing on the work of the Venice Commission. The chapter provides a historical overview of the role and development of the Venice Commission as a leading advisor to states at the crossroads of international law and domestic constitutional law. This role is chiefly fulfilled through soft law instruments, such as opinions, but draws on hard law resources, especially in the area of human rights. The authors argue that the primary reason for the success of the Venice Commission lies in its capacity to build strong relationships with states. Prominent examples where states have rejected the advice of the Commission are rooted primarily, they suggest, in a general scepticism towards any form of European integration and cooperation, rather than specific concerns with the work of the Venice Commission.

Overall most authors have interpreted the topic of the book narrowly with little overt engagement with other contributions. The edited collection thus illustrates the challenge of connecting a range of diverse contributions on a broad subject and offering something beyond the sum of all parts: a challenge the book has ultimately not overcome. The collection lacks a common analytical framework and overarching insights that perhaps a stronger introduction might have facilitated. That being said, most chapters are illuminating and insightful on their own terms. In that sense, the book will be primarily of interest for academics and researchers engaged in research on the specific subjects of individual chapters.

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*Luuk van Middelaar*, **Alarums and Excursions: improvising politics on a European stage**, Liz Walker (trans), Newcastle upon Tyne: Agenda Publishing Agency, 2019, xviii + 301 pp, hb £25.00.

Luuk van Middelaar's *Alarums and Excursions* is a captivating read for academics with an interest in EU constitutionalism. Over the last decade, legal scholars have written countless pages on the dangers of 'executive federalism' in the EU and the resulting legitimacy-deficits; for example in relation to the lack of parliamentary scrutiny and judicial oversight of executive power during the

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Eurozone crisis. Similarly, legal scholars have addressed issues such as the legality of the Memoranda of Understanding issued to debtor countries by the ‘Troika’ (consisting of representatives of the European Commission, the ECB and the International Monetary Fund, IMF) and the compatibility with international law of the refugee deal with Turkey. [Correction added after online publication on 10 January 2020: Worldbank changed to International Monetary Fund, IMF].

Van Middelaar takes a completely different approach. Currently a Law Professor at Leiden University, he worked between 2009 and 2014 as the speech-writer for Herman Von Rompuy, when the latter served as first President of the European Council. Assessing the past crisis-decade in the EU, Van Middelaar combines practical political insights with political theory, often relying on Machiavelli, Arendt, and, less explicitly, Carl Schmitt. Politics, not law, stands central to his analysis. Rejecting the notion that law can still serve as the driver of European integration, he calls for the politicisation of the EU. In his view, the centrality of law is harmful to European integration given the depoliticising nature of rules. This is a powerful critique, which legal scholars cannot easily ignore.

The main argument of his book is that the European project underwent a metamorphosis after 1989 when the European Community became the European Union. As a consequence of this, politics re-entered the European scene. Only during the last ten years of crisis has it become clear that this was a constitutional transformation: ‘from “governance” to “government”, from anonymous, multi-layered administration to the undisguised, visible authority of a government, or from the sphere of judicial or bureaucratic competences to that of political responsibility and authority’ (12). Or, put simply, a transformation from a political system that is purely based on the ‘politics of rules’ to a system that also engages in the ‘politics of events.’

The book is divided into two parts. The first part, ‘Acts and Scenes’, addresses how the EU has responded to the different crises it has faced over the past decade, discussing in four consecutive chapters the Eurozone crisis, the Ukraine crisis, the refugee crisis and the ‘Atlantic crisis’ (Brexit and the election of Trump). Despite their obvious differences, Van Middelaar draws three common lessons: first, political motives for being together prevail over purely economic interests; second, the EU cannot see itself purely as a peace project, but must also see itself as a power project; third, crisis situations require decision-making rather than the application of norms. This third point is particularly emphasised through the first part of the book.

In each of the four chapters Van Middelaar shows how rules-based politics, ie the technocratic approach of the European Commission which relies on depoliticisation, expert-knowledge and anonymity, proves insufficient during moments of crisis. Rather, in times of emergency, a politics of events is needed: ie political action which takes place outside of the normal legal framework, requires improvisation and is supported by a narrative explaining why the action is necessary.

In the first chapter, Van Middelaar explains how the establishment of the European Monetary Union (EMU) is a prime example of rules-based politics.

The EMU was devised as a set of common rules, without any shared institutions or instruments with the capacity to act in times of emergency. Only during the Eurozone crisis did the heads of state and government realise they had a shared responsibility for the survival of the Union as a whole: ‘If the Euro fails, Europe fails’, as Merkel put it. This realisation allowed the leaders of governments to engage in event politics: they jointly acted and came up with creative solutions to circumvent the restrictions of the ‘no bailout’ clause in the Treaty. In contrast to many legal scholars, Van Middelaar does not regard this as a real problem: ‘in emergency situations . . . breaking with the rules could actually equate to being true to the contract’ (40).

Similarly, rules-based politics proves problematic when it comes to geopolitics and particularly to the question of how the EU should deal with its direct neighbours. When Ukraine turned towards Europe during the Maidan revolt in 2014, the EU saw itself as a ‘well-meaning, passive magnet’ attracting Ukraine with the promise of EU membership, whereas Russia interpreted the EU’s rapprochement to Ukraine as a ‘hypocritical actor, shifting its external border eastwards’ (69). This pull-factor does not only apply to states, but also to individuals, as Europe found out during the refugee crisis in 2015.

Van Middelaar’s analysis shows how in both instances the Brussels institutions lacked the means and the authority to solve these crises. Rather, the European Council took the stage and acted as an ‘authoritative strategist’, brokering a compromise between Poroshenko and Putin in 2015, as well as concluding a deal between the Union and Turkey during the height of the refugee crisis in March 2016. Van Middelaar regards both as watershed moments, revealing ‘the tensions between the Union as a moral beacon and as a player of power politics: this was at one and the same time self-denial and a new maturity’ (72).

Moreover, the refugee crisis also marked the limits of the community method. The Commission’s attempt to impose a quota system on the Member States amounted to technocratic, practical and institutional overreach and as a consequence did not produce any results. Van Middelaar especially criticises the Commission’s attempt to side-step the European Council, instead of working together and committing the political leaders to a common solution.

Finally, Van Middelaar discusses the Atlantic’ crisis. He argues Brexit has served as the EU’s Machiavellian moment, breaking the spell of Brussels’ thinking in regard to the perpetuity of the union and the idea of an ever closer union. Rather, the EU has become aware of its own mortality and contingency in space and time. Coupled with the election of Trump and his reorientation towards ‘America First’, Van Middelaar argues that the EU, and more specifically Germany, have adopted a new self-understanding, realising Europe needs to take its destiny into its own hands.

Van Middelaar’s discussion of these crisis-moments is rich and detailed, and his structured analysis – centred around key-dates and events – makes this complex period of European history very accessible. Drawing from his personal experience, he provides many insights and details that others have overlooked. However, his main point, namely the shift from rules-based politics to a politics of events is not entirely convincing. The Eurozone crisis, in particular, does not seem to fit this frame and could just as easily be described as a confirmation

of the success of good old rules-politics. After all, the creation of first Six-pack (a legislative package reforming the Stability and Growth Pact) and later the European Stability Mechanism (ESM), the establishment of the Banking Union and the introduction of the European Semester, have all contributed to the Europeanisation of economic and fiscal policies. The fact that political leaders only agreed to establish these institutions at the very height of a crisis-situation is not 'new' – rather it seems like a classic example of how European states embrace cooperation and supranationalism due to economic and political pressure. Didn't Jean Monnet already say that Europe will be forged through crises?

The second part of the book, called 'Theatre', situates the shift from rules-politics to events-politics in a more historical context and argues this shift has led to the creation of a European public sphere. In Chapter 5, Van Middelaar argues convincingly that the post 1989 transition from the European Community to the European Union marks a new foundational moment, in which the shift from rules politics to politics of events finds its origins. This moment also indicates a change in the 'dramaturgical styles of Europe's political theatre'. Building on his analysis in the *The Passage to Europe* (New Haven, CT and London: Yale University Press, 2013), Van Middelaar introduces three concepts to describe the different institutional styles of the EU: backstage depoliticisation (functionalism), frontstage parliamentarisation (federalism) and frontstage summitry (confederalism). The latter has been around since the Luxembourg compromise of 1966, but was only formalised at the Maastricht Treaty with the establishment of the European Council. Nonetheless, van Middelaar considers confederalism to be the most fruitful way forward, because it has contributed significantly to the creation of an EU government.

In Chapter 6, Van Middelaar discusses in more detail how the European Council has taken up the role of the EU's main executive power, arguing its summit-meetings have become a 'locus of power' and a 'story generator' (191). The high profile summit meetings attract a lot of attention and scrutiny in the public sphere, increasing the democratic character of the Union. This function is especially important, because the public has finally discovered Europe, with populations shifting their attitude towards the EU from permissive consensus to constraining dissensus.

The final chapter of the book builds on this insight, arguing that the emancipation of the executive and the awakening of the public is a positive development as it contributes to the creation of organised opposition within the EU. Government and opposition develop in tandem and Van Middelaar rightly regards this as a crucial development: if political minorities are not able to voice their opposition within the structures of the Union, they will lose their loyalty to the system and instead call for an exit. For this reason he argues the EU needs to break with its culture of depoliticisation – which is technical, constitutional and procedural in nature – and instead should strengthen the institutional framework to allow oppositional voices to be heard.

The book ends with the conclusion that the 'creative tension between the three theatrical styles is spent' (248). Van Middelaar deems depoliticisation no longer an option now that the public has been awakened and considers

federal parliamentarisation undesirable, because it does not adequately reflect the political fault-lines within the Union. Instead he considers it time for plain speaking, ie recognising the Union will not become a single state, but will remain a union of states that cooperate closely with each other without losing individuality. In other words, confederalism is the way forward.

Van Middelaar's overall analysis of the past crisis-decade is highly enlightening and he argues convincingly against the tendencies of the EU to depoliticise sensitive political issues. In this way, he joins a chorus of scholars who have sought to explain the link between technocracy and populism and makes a strong case to strengthen the capacity for politics within the European project.

At the same time, the book would have profited from a more rigorous structure and a more systematic discussion of theoretical concepts. The distinction between the politics of rules and the politics of events is introduced at the start, but a more in-depth discussion of the metamorphosis after 1989 only happens in Chapter 5. Changing the order could have put the argument as a whole on a more solid footing. This would also have allowed for a more developed discussion of the interaction between law and politics within the Union. Two points in particular would have deserved more attention.

Firstly, Van Middelaar argues against rules-based politics because rules are of a depoliticising character, but does not address the fact that all instances of 'event-politics' have led to the creation of closer cooperation and integration – and thus to more rules. Even Brexit so far has only led to greater cohesion among the EU Member States. Rather than an antidote to Brussels' perpetuity thinking, Brexit could therefore just as well prove to be an impetus for increased cooperation and integration, given the most obstructive member will leave the club.

Secondly, Van Middelaar's emphasis on the need for politics and opposition is a useful correction of classical theories of 'integration-through-law', but there could have been more attention to the downsides and dangers of 'integration-through-politics'. He notes that the metamorphosis of the European project has re-introduced national interest and power-discrepancies between Member States within the Union. This has increased the role of Germany at the expense of the formal equality of the Member States. But is this a desirable development? Or will the EU become dominated by Germany, as some have argued? Can the Union really dispense with rules, as van Middelaar seems to suggest?

In sum, *Alarums and Excursions* provides a revealing account of the past crisis decade in the EU and its effects on the future of the Union, but the book leaves several questions regarding the role of law within the Union answered. Van Middelaar's book can therefore best be seen as both a challenge and an invitation to legal scholars to rethink the interaction between law and politics in the EU.

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