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Ethical Dimensions of the Foreign Policy of the European Union

A Legal Appraisal

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Series Editors' Preface

The foreign policy of the European Union as such has so far received relatively little attention from lawyers, although there are excellent works on the Union's external relations in general. *Ethical Dimensions of the Foreign Policy of the European Union* seeks at once to fill that gap and to present, both in the wider perspective and, through the use of well-thought-out case studies, by reference to the major ethical themes of denial of democratic rights, participation in the Middle East peace process, and humanitarian aid, a considered, scholarly and critical assessment of the Union's foreign policy objectives and achievements. The promotion of ethical values in foreign policy forms an essential part of good neighbourhood policy and the promotion of respect for fundamental rights and the rule of law; and, as Dr Khaliq rightly observes, the litmus test for an ethical foreign policy lies in its application. He assesses ethical foreign policies from the perspective first of public international law, and then turns to the policy and practice of the European Union. Although the Union is firmly anchored on such concepts as liberty, democracy, respect for human rights and fundamental freedoms, and social rights, he notes that the link between these principles and external relations is weak; this is certainly institutionally so, although in practice the link is more frequently paraded, even if perhaps not always as much observed as might be desired. All foreign policies must, to varying degrees, take account of *Realpolitik*, as well as of accepted or disputed principles, whether those principles be self-adopted or encouraged, stimulated or imposed by (elements of) the world order. The chicken and egg relationship between principles and policies is never far from the surface, demonstrating that politics remains the art of the possible.

The European Union has had to tread a careful path, ensuring that the right measures are adopted on the basis of the right powers, not least

because the European Court of Justice will be keen to ensure that (at the very least) the prerogatives of the Community are not infringed, and that the Institutions have acted within the limits of their powers. The use of Community or Union *vires* as appropriate is dramatically illustrated and brought to life in Dr Khaliq's book. Of particular interest is his illustration of the use of the Community's development cooperation powers to pursue a global humanitarian policy, while leaving the Member States free to pursue their own development cooperation agendas. His case studies illustrate powerfully how the Union uses the means at its disposal, but they also demonstrate the shortcomings in its relationships with third countries, some of which result from inherent contradictions in granting aid, and some from the need to rely on other organisations to carry out the activities. Yet more generally, the structure of the Union's approach to foreign policy (even if the Treaty of Lisbon comes into force, there will still be more than one person seeking to speak for Europe) and the plethora of actors within the Union offer plenty of room for turf wars at the expense of a coherent foreign policy. While the overall picture of the promotion of ethical values and principles in third countries which Dr Khaliq paints is positive, he does not gloss over the need for reform and reassessment if the Union's contribution is to be more meaningful still.

This book will be of enormous value to lawyers, policy-makers and all concerned with foreign policy analysis and the external aspects of the Union's activities in the broadest sense. It is, therefore, with great pleasure that we welcome this important and invigorating book in the series *Cambridge Studies in European Law and Policy*.

Laurence Gormley
Jo Shaw

Acknowledgements and Preface

This monograph is based upon a very substantially revised and expanded version of a PhD thesis successfully defended at University College, London in 2004. In the course of writing the thesis and subsequently the book, I have become indebted to many people who have helped in different ways. I would like to thank each of you individually but it is impossible to do so here so I will thank you all collectively. There are, however, a few people who I must mention.

I would like to thank Margot Horspool, Prof. David O'Keeffe and especially Prof. Eileen Denza for supervising my doctoral work. Without their encouragement, patience and advice it would not have been possible for me to finish the thesis. My examiners, Prof. Marise Cremona and Prof. Dominic McGoldrick, provided very detailed and insightful feedback on the thesis with a view to it being revised for publication. I have tried to address each and every one of their suggestions. I am extremely grateful to them all.

I would particularly like to thank Dr Heli Askola and Dr Stewart Field for their many detailed and insightful comments and suggestions. I would also like to thank Mauro Barelli, Dr Jo Hunt and James Young for commenting upon earlier versions of particular chapters. I further wish to express my immense gratitude to Prof. Robin Churchill and Prof. David Campbell for their suggestions, support and advice, not only with regard to this work but on all matters since I first had the pleasure to work with them.

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In my undertaking such a lengthy and time-consuming project, my loved ones have invariably suffered (or benefited, depending on the point of view) from my either not being around very much, being too busy to do certain things with them or not turning up for the odd event. This book or my finishing it will not make up for any of these shortcomings in my behaviour over the years but it would have been impossible without you. Thank you.

I have sought to state the law and facts as I understood them on 30 June 2007 although it was possible to take account of events in the Middle East and Pakistan up until the end of July 2007. It has not been possible to take account of the subsequent uprising in Myanmar, the Annapolis Conference on the Middle East or the state of emergency in Pakistan, all of which occurred before the end of 2007 but after the manuscript was submitted. It has also not been possible to take account of and discuss the Treaty Amending the Treaty on European Union and the Treaty Establishing the European Community (EU Reform Treaty) as approved during the informal European Council in Lisbon on 18–19 October 2007. Those provisions of the Constitutional Treaty which are discussed in the text are substantively not very (if at all) different from those which are in the EU Reform Treaty. It is, of course, still uncertain if the EU Reform Treaty will enter into force and, if it does, when it will do so. So as to allow the interested reader to more easily compare the position under the Constitutional Treaty with the EU Reform Treaty, I have created a Table of Equivalences of the main provisions of the former discussed in the text. Where the provisions of the EU Reform Treaty amend existing provisions in the current treaties they must be read in conjunction with them. It is hoped that by creating such a table this will prove a satisfactory way of trying to take account of the Reform Treaty at this stage in the production process.

Urfan Khaliq
Cardiff

The Constitutional Treaty and the Reform Treaty: Table of Equivalences

Constitutional Treaty Provisions	Reform Treaty Provisions	Existing EU/EC Treaty Provisions Amended
Article I-2	Article 1(3)	Articles 2 TEU, TEC
Article I-3	Article 1(4)	
Article I-7	Article 1(55)	
Article I-9	Article 1(8)	
Article I-58	Article 1(57)	Article 49 TEU
Article III-292	Article 1(24)	
Article III-308	Article 1(45)	Article 47 TEU
Article III-309	Article 1(49)	Article 17(2) TEU
Article III-316	Article 2(161)	Articles 177 and 178 TEC
Article III-318	Article 2(163)	Article 180 TEC
Article III-321	Article 2(168)	
Article III-328	Article 2(175)	Article 20 TEU
Article III-376	Article 2(223)	
Article III-426	Article 2(281)	Article 282 TEC

Table of Cases

European Court of Justice

Cases:

Case 26/62 *NV Algemene Transport-en Expeditie Onderneming van Gend en Loos v. Nederlandse Administratie der Belastingen* [1963] ECR 1 26

Case 22/70 *Commission v. Council* [1971] ECR 263 115

Case 45/86 *Commission v. Council* [1987] ECR 1493 170

Case C-367/89 *Aimé Richardt and 'Les Accessiores Scientifiques'* [1991] ECR I-4621 183

Case C-286/90 *Anklagemindigheden v. Poulsen and Diva Navigation* [1992] ECR I-6019 27

C-158/91 *Ministère Public et Direction du Travail et de l'emploi v. Jean-Claude Levy* [1993] ECR I-4287 29

Cases C-181/1991 and 248/1991 *European Parliament v. Council of the European Communities and Commission of the European Communities* [1993] ECR I-3685 85, 115

Case C-316/1991 *European Parliament v. Council of the European Union* [1994] ECR I-625 85, 115

Case C-70/94 *Fritz Werner Industrie-Ausrüstungen GmbH v. Germany* [1995] ECR I- 3189. 183, 185

Case C-83/94 *Criminal Proceedings against Peter Leifer, Reinhold Otto Krauskopf and Otto Holzer* [1995] ECR I-3231 83, 85

Case T-115/94 *Opel Austria v. Council* [1997] ECR II-39 27

Case C-167/94 *Criminal Proceedings Against Juan Carlos Grau Gomis and Others* [1995] ECR I-1023 84

C-268/94 *Portuguese Republic v. Council of the European Union* [1996] ECR I-6177 109–15, 142, 299, 444

Case C-124/95 *R, ex parte Centro-Com Srl v. HM Treasury and the Bank of England* [1997] ECR I-81 183

- Case C-106/96 *United Kingdom v. European Commission* [1998] ECR I-2729 140
- Case C-162/96 *A. Racke GmbH & Co. v. Hauptzollamt Mainz* [1998] ECR I-3655 27, 28, 29, 43
- Case C-170/96 *Commission v. Council* [1998] ECR I-2763 84, 85
- Case T-306/01 *Ahmed Ali Yusef and Al Barakat International Foundation v. Council and Commission* [2005] ECR II-3533 27, 28, 44, 144, 182, 183
- Case T-315/01 *Yassin Aduallah Kadi v. Council and Commission* [2005] ECR II-3649 27, 28, 44
- Case T-253/02 *Chafiq Ayadi v. Council of the European Union* [2006] ECR II-2139 27, 28, 44
- Case T-228/02 *Organisation des Modjahedines du Peuple d'Iran v. Council of the European Union* [2007] 1 CMLR 34 27, 84
- T-47/03 *Jose Maria Sison v. Council of the European Union* [2007] 3 CMLR 39 29
- C-176/03 *Commission of the European Communities v. Council of the European Union* [2005] ECR I-7879 84, 85
- Case T-49/04 *Faraj Hassan v. Council of the European Union and Commission of the European Communities* [2006] ECR II-52 27
- Case T-362/04, *Leonid Minin v. Commission of the European Communities*, judgment of 31 January 2007, nyr 27

Opinions

- Opinion 1/78* (Agreement on Natural Rubber) [1979] ECR 2871 111, 170
- Opinion 2/92* (Third Revised Decision of the OECD on National Treatment) [1995] ECR I-521 142
- Opinion 2/94* (Accession of the European Communities to the European Convention on Human Rights) [1996] ECR I-1759 142–44
- Opinion 2/00* (Cartagena Protocol on Biosafety) [2001] ECR I-9713 29
- Opinion 1/03* (on the Competence of the Community to Conclude the New Lugano Convention on Jurisdiction and the Recognition and Enforcement of Judgements in Civil and Commercial Matters) [2006] ECR I-1145 115

Permanent Court of International Justice and International Court of Justice

Advisory Opinions:

- Advisory Opinion, *Nationality Decrees Issued in Tunis and Morocco* [1923] Series B No. 4, 1 33

- Advisory Opinion, *Reparations for Injuries Suffered in the Service of the United Nations* [1949] ICJ Reports 174 20, 21, 34
- Advisory Opinion, *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide* [1951] ICJ Reports 15 38
- Advisory Opinion, *Legal Consequences for States of the Continued Presence of South Africa in Namibia Notwithstanding Security Council Resolution 276 (1970)* [1971] ICJ Reports 16 50, 51, 112
- Advisory Opinion, *Interpretation of the Agreement of 25 March 1951 Between the WHO and Egypt* [1980] ICJ Reports 73 29
- Advisory Opinion, *Legality of the Threat or Use of Nuclear Weapons* [1996] ICJ Reports 226 34, 38, 82
- Advisory Opinion, *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights* [1999] ICJ Reports 62 24
- Advisory Opinion, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* [2004] ICJ Reports 136 38, 42, 43, 51, 302, 315, 324, 326, 329–36, 338, 439

Contentious Cases:

- France v. Turkey* [1927] Series A No. 10, 1 33
- Belgium v. Spain – Barcelona Traction, Light and Power Company Limited, Second Phase* [1970] ICJ Reports 3 36–8
- Australia v. France – Nuclear Tests Case* [1974] ICJ Reports 253 49, 62
- New Zealand v. France – Nuclear Tests Case* [1974] ICJ Reports 457 49, 62
- Nicaragua v. United States of America – Military and Paramilitary Activities in and Against Nicaragua (Merits)* [1986] ICJ Reports 14 30, 34–5, 48, 50, 66, 71, 329
- Portugal v. Australia – East Timor Case* [1995] ICJ Reports 90 38
- Bosnia and Herzegovina v. Yugoslavia – Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Preliminary Objections)* [1996] ICJ Reports 595 36
- Hungary v. Slovakia – Case Concerning the Gabčíkovo-Nagymaros Project* [1997] ICJ Reports 7 50
- Cameroon v. Nigeria: Equatorial Guinea Intervening – Land and Maritime Boundary Between Cameroon and Nigeria* [2002] ICJ Reports 303 269
- Democratic Republic of Congo v. Uganda – Armed Activities on the Territory of the Congo* [2005] ICJ Reports 116 329
- Bosnia and Herzegovina v. Serbia and Montenegro – Case Concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide*, judgment of 27 February 2007, nyr 28, 42, 442

Awards and Decisions of Other International Tribunals

European Court and Commission of Human Rights:

X v. Federal Republic of Germany (1958) 2 YB 256 25

Cyprus v. Turkey (1976) 4 EHRR 482 56

'Case Relating to Certain Aspects of the Laws on the Use of Languages in Education in Belgium' v. Belgium, Judgment on Preliminary Objections Series A. No. 5 (1979–1980) 1 EHRR 241 39

Soering v. United Kingdom Series A. No. 161 (1989) 11 EHRR 439 57

Loizidou v. Turkey (Preliminary Objections) (1995) 20 EHRR 99 57

Loizidou v. Turkey (1996) 23 EHRR 513 57

United Communist Party of Turkey v. Turkey (1998) 26 EHRR 121 72

Matthews v. United Kingdom (1999) 28 EHRR 361 25

Al Adsani v. United Kingdom (2002) 34 EHRR 11 38

Bosphorus Hava Yollari Turizm ve Ticaret Anonim Şirketi v. Ireland (2006) 42 EHRR 1 25, 26

Banković and Others v. Belgium and 16 Other States (2007) 44 EHRR SE5 57

Others:

Portugal v. Germany (1928) 2 RIAA 1012 50

WTO Panel Report, *European Communities – Conditions for the Granting of Tariff Preferences to Developing Countries*, WT/DS246/R, 1 December 2003 178

WTO Report of the Appellate Body, *European Communities – Conditions for the Granting of Tariff Preferences to Developing Countries*, WT/DS246/AB/R, 7 December 2004 178

WTO Report of the Appellate Body, *European Communities – Export Subsidies on Sugar*, WT/DS265/AB/R, WT/D266/AB/R and WT/DS283/AB/Rx 05-1728, 28 April 2005 135

Decisions of Domestic Courts

Israel:

Public Committee Against Torture in Israel v. State of Israel, HCJ 5100/94, Supreme Court of Israel, Sitting as the High Court, 26 May 1999 53(4) P.D. 817 299

Beit Sourik Village Council v. The Government of Israel and the Commander of the IDF Forces in the West Bank, HCJ 2056/04, Supreme Court of Israel, Sitting as the High Court, 30 June 2004 (2004) 43 ILM 1099 331, 336

Mara'abe v. The Prime Minister of Israel, HCJ 7957/04, *Supreme Court of Israel Sitting as the High Court of Justice*, 15 September 2005 (2006) 45 ILM 202 331, 336

Public Committee Against Torture in Israel v. Government of Israel, HCJ 769/02, *Supreme Court of Israel, Sitting as the High Court of Justice*, 11 December 2005 (2007) 46 ILM 375 343

Head of the Azzun Municipal Council, Abed Alatif Hassin and Others v. State of Israel and the Military Commander of the West Bank, HCJ 2733/05, nyr 331

Nigeria:

Shell v. Ijaw Aborigines of Bayelsa State, *Federal High Court, Port Harcourt*, judgment 24 February 2006, nyr 256

Pakistan:

Zafar Ali Shah v. Pervez Musharraf, Chief Executive of Pakistan, (2000) 52(2) PLD 869 244

Constitution Petition No. 21 of 2007, Chief Justice of Pakistan – Mr. Justice Iftikhar Muhammad Chaudhry v. The President of Pakistan Through the Secretary and Others, judgment 20 July 2007, nyr 246

United Kingdom:

R v. Bow Street Metropolitan Magistrate, ex part Pinochet Ugarte (No. 3) [1999] 2 WLR 827 38

United States of America:

Filartiga v. Pena-Irala (1980) 630 F.2d 876 38

Doe v. Unocal, 963 F. Supp. 880 191

National Foreign Trade Council v. Andrew S. Natsios and Philmore Anderson, III (1999) 118 F.3d.38 191

Crosby v. National Foreign Trade Council (2000) 530 US 363 214

Roper v. Simmons (2005) 543 US 551 236

Table of Treaties

EC and EU Treaties

Treaty Establishing the European Community, 1957 298 UNTS 11.

Adopted 25 March 1957, Rome, entered into force 1 January 1958 as amended by the Treaty of Nice [2002] OJ C325/33, 24 December 2002, adopted 26 February 2001, entered into force 1 February 2003.

Article 2 142–3

Article 3 143

Article 5 81

Article 60 182

Article 133 20, 102, 109, 165, 170–87, 226, 275

Article 177 51, 52, 108–15, 123, 142–5, 150, 160, 163, 166, 187, 299, 451

Article 179 104, 108, 115, 141, 145–6, 148, 151, 161–2, 187, 226, 304

Article 181 20, 51, 102, 108–15, 142, 145–6, 148, 163, 187, 275, 304

Article 230 80

Article 234 80

Article 281 20, 102

Article 282 20, 23

Article 300 102, 109

Article 307 26, 182

Article 308 102, 108–10, 142–5, 148, 151, 159, 160, 165, 170, 182, 187, 421, 426, 451

Article 310 20, 102, 151, 187, 451

Treaty on European Union [1992] OJ C 191/1, 29 July 1992. Adopted 7 February 1992, Maastricht, entered into force 1 November 1993 as amended by the Treaty of Nice [2002] OJ C325/33, 24 December 2002, adopted 26 February 2001, entered into force 1 February 2003.

Article 1 82

Article 2 52, 83

Article 3 54, 83

Article 5 81

Article 6 53, 144-5, 151

Article 11 52, 83, 145, 151, 367, 473

Article 13 23, 85, 87, 358

Article 14 87, 288, 353, 363, 367

Article 15 87

Article 18 22, 88, 92, 288, 353

Article 20 92

Article 24 21, 22, 23

Article 38 21

Article 47 83, 84, 125

Treaty Establishing a Constitution for Europe. Adopted 29 October 2004, Rome, [2004] OJ C 310/1, 16 December 2004, not in force.

Article I-2 9, 69

Article I-3 10, 281

Article I-7 23

Article I-9 20, 41, 420

Article I-58 69

Article III-292 54, 55, 83, 115, 123, 435

Article III-308 84

Article III-309 420

Article III-316 52, 54, 109

Article III-318 109

Article III-321 54, 405, 435

Article III-328 92

Article III-376 84

Article III-426 23

Treaties to Which the EC Is Party

Convention d'association entre la Communauté économique européenne et les Etats africains et malgache associés à cette Communauté (Yaoundé I) [1964] OJ L093/1431, 11 June 1964 (no longer in force) 104

Agreement Between the European Economic Community and the Islamic Republic of Pakistan on the Supply of Common Wheat as Food Aid [1969] OJ L175/2, 16 July 1969 (no longer in force) 218

Convention d'association entre la Communauté économique européenne et les Etats africains et malgache associés à cette

- Communauté (Yaoundé II) [1970] OJ L282/2, 28 December 1970 (no longer in force) 104
- ACP-EEC Convention of Lomé (Lomé I) [1976] OJ L25/2, 30 January 1976 (no longer in force) 32, 104, 247, 252
- Commercial Cooperation Agreement Between the EEC and the Islamic Republic of Pakistan [1976] OJ L168/2, 28 June 1976 (no longer in force) 218
- Cooperation Agreement Between the European Community and Indonesia, Malaysia, the Philippines, Singapore and Thailand – Member States of the Association of South-East Asian Nations [1980] OJ L144/2, 10 June 1980 189
- Second ACP-EEC Convention (Lomé II) [1980] OJ L347/1, 22 December 1980 (no longer in force) 104, 151, 247, 252
- Agreement on Trade and Economic Cooperation Between the European Economic Community and the People's Republic of China [1985] OJ L250/1, 19 September 1985 (no longer in force) 96
- Third ACP-EEC Convention (Lomé III) [1986] OJ L86/3, 31 March 1986 (no longer in force) 104, 151, 247, 252
- Agreement for Commercial, Economic and Development Cooperation Between the EEC and the Islamic Republic of Pakistan [1986] OJ 1986 L108/1, 25 April 1986 (no longer in force) 218, 222
- Fourth ACP-EEC Convention (Lomé VI) [1991] OJ L229/3, 17 August 1991 (no longer in force) 104, 151, 162, 247, 252
- EC-Israel Interim Agreement on Trade and Trade Related Matters [1996] OJ L71/1, 21 March 1996 (no longer in force) 304
- Euro-Mediterranean Interim Association Agreement on Trade and Cooperation Between the European Community, of the One Part, and the Palestine Liberation Organization for the Benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the Other Part [1997] OJ L187/3, 16 July 1997 275, 305, 350–4
- Euro-Mediterranean Agreement Establishing an Agreement Between the European Communities and their Member States, of the One Part, and the Republic of Tunisia, of the Other Part [1998] OJ L97/2, 30 March 1998 276
- Agreement Amending the Fourth ACP-EEC Convention [1998] OJ L156/3, 29 May 1998 (no longer in force) 104, 115, 252, 253
- Partnership and Cooperation Agreement Establishing a Partnership Between the European Communities and their Member States, of the One Part, and the Republic of Uzbekistan, of the Other Part [1999] OJ L229/3, 31 August 1999 272, 337

- Euro-Mediterranean Agreement Establishing an Association Between the European Communities and their Member States, of the One Part, and the Kingdom of Morocco, of the Other Part [2000] OJ L70/2, 18 March 2000 276
- Euro-Mediterranean Agreement Establishing an Agreement Between the European Communities and their Member States, of the One Part, and the State of Israel, of the Other Part [2000] OJ L147/3, 21 June 2000 276, 299, 313–16, 336–47
- Partnership Agreement Between the Members of the African, Caribbean and Pacific Group of States, of the One Part, and the European Community and its Member States, of the Other Part (Cotonou Agreement) [2000] OJ L317/3 15 December 2000 as revised [2005] OJ L209/27, 11 August 2005 61, 77, 93, 103, 105, 135, 151, 173, 247, 252, 337
- Cooperation Agreement between the European Community and the Islamic Republic of Pakistan on Partnership and Development [2004] OJ L378/23, 23 December 2004 223–33
- Euro-Mediterranean Agreement Establishing an Association Between the European Community and its Member States, of the One Part, and the People's Democratic Republic of Algeria, of the Other Part [2005] OJ L265/12, 10 October 2005 381

Other Treaties

- Regulations Respecting the Laws and Customs of War on Land Annexed to the Fourth Hague Convention of 18 October 1907, (1910) UKTS 9. Adopted 18 October 1907, The Hague, entered into force 26 January 1910 303
- International Convention for the Abolition of Slavery and the Slave Trade, 1926, 60 LNTS 253. Adopted 25 September 1926, Geneva, entered into force 9 March 1927 39, 172, 193, 219, 299
- Forced Labour Convention, 1930, ILO No. C 29, 39 UNTS 55. Adopted 28 June 1930, Geneva, entered into force 1 May 1932 172, 192, 193, 220, 249, 299
- Charter of the United Nations, 1945, 1 UNTS 16. Adopted 26 June 1945, San Francisco, entered into force 24 October 1945 25, 30, 31, 47, 58, 63, 67, 71–3, 292, 313, 329, 330, 436
- Freedom of Association and Protection of the Right to Organise Convention, 1948, ILO No. C 87, 68 UNTS 17. Adopted 9 July 1948, San Francisco, entered into force 4 July 1950 172, 192, 193, 220, 249, 299