

[*European private law in statu nascendi*]

FRYDERYK ZOLL

16 A European code of contract law? - on the prospects of new private law for Europe.

How will European private law develop? Is creation of a European code of contract law the right way for regulating the area? Are there any other alternative solutions, which would allow to meet the objectives of private law codification by different, although possibly less effective or spectacular but more politically realistic, means? Such are the questions posed by the author in his reflection concerning the possible way in which regulation of European private law might be developed.

RAFAŁ MAŃKO

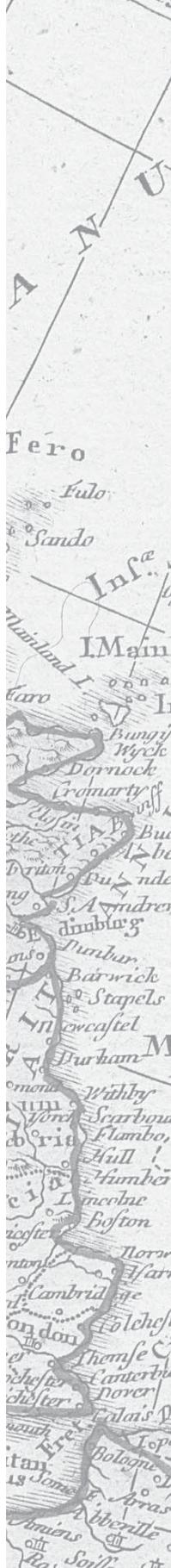
35 The unification of European private law from a Polish perspective

Regardless of what would be the future of a European code of contract law, whether it would ever enter into force, and if so in what form, it is definitely worthwhile to put forward a question concerning the impact that private law unification might have on the Polish society. The article focuses on the potential effect that the imposition of European legal norms over the Polish legal system might have on the functioning of lawyers, entrepreneurs and consumers.

PIERRE LEGRAND

85 A Diabolical Idea

Should the proposal to develop a European code of contract law be sustained? According to the author the response to the question is determined by the existence of two legal traditions represented in the European Community – Continental and Anglo-Saxon. Legrand criticizes the idea of a European code of contract law on the grounds that it is not only arrogant, misleading and utopian, but most importantly contrary to the ethos and letter of European community law.



OLE LANDO

131 Culture and Contract Laws

In the article it is argued that the wish to preserve the cultural values of national law should not prevent the EU from preparing a Code or an Optional Instrument. The nocode countries on the British Isles and in Scandinavia are the most ardent opponents to the idea of unifying European Contract Law by way of a code on Contracts. In both these regions however the absence of a code causes problems. In England a prominent writer has found that the major weakness of the judge-made law is its immense diffusion and the consequent difficulty of access to it and the Nordic countries face the same problem. Looking at the issues where the rules are different the explanation is one of tradition.

REINER SCHULZE

160 European Private Law and Existing EC Law

European Community law has expanded so much in recent decades that it is possible to develop overarching principles for contract law and other areas of law from the provisions for individual subjects and sectors. The existing EC law itself can form the primary source of academic works for the further development of European private law. The 'acquis-approach' and comparative studies however have to supplement each other. Although the principles of the existing EC law cover more objects of contract law than commonly supposed, they by no means cover all areas.

REINHARD ZIMMERMANN

184 Roman Law and the Harmonization of Private Law in Europe

For over 100 years there have been as many legal systems in Europe as national states. The borders between legal schools of thought correspond to the borders of states. According to Zimmermann the codification of European private law would necessitate a far-reaching change of that situation, leading to the formation of one, unified legal doctrine for Europe. The author concedes that such common legal culture, both when it comes to the doctrine and jurisprudence based on common sources, existed once in the past. The "old" European law was known under the term of Roman canonical *ius commune*.

MARTIJN W. HESSELINK

220 European Contract Law: A Matter of Consumer Protection, Citizenship, or Justice?

Obvious alternatives to the consumer protection approach to the Europeanization of contract law include the perspectives of European citizenship and of justice. Does it matter whether European contract law is developed as a matter of consumer protection, citizenship or justice? Or, to put it differently, does it make a difference for a contracting party whether she is treated as a consumer, a citizen or a person? This paper argues that it does. It presents the European policies with regard to consumer protection, European citizenship and the Area of justice, and discusses the kind of contract law that each of these approaches leads to and the kind of society they contribute towards.

VINCENZO ZENO-ZENCOVICH, NOAH VARDI

259 The Constitutional Basis of a European Private Law

The discussion about European private law should take into account the context, namely the process of progressive constitutionalisation of EU law. The authors of the article concentrate on two crucial issues. Firstly, they analyze the impact of EU law (treaties, the charter of fundamental rights) on evolving European private law. Secondly, they try to answer the fundamental question – to what extent constitutionalisation of EU law influences the Communities' competence to harmonize private law as such?

[Documents]

STUDY GROUP ON SOCIAL JUSTICE IN EUROPEAN
PRIVATE LAW

274 Social Justice in European Contract Law: a Manifesto

The authors of the Manifesto argue that the unification of private law should be perceived as fitting into the complex, political evolution of the construction of a European polity, based upon shared values, which at the same time respects the diversity of national and regional cultural traditions. It is a mistake to conceive of this process as a simple measure of market building. Hence, the authors postulate to reconsider the current way of constructing a European private law system, so that it ensures that the political process is geared towards the achievement of ideals of social justice.

[Essay on Europe]

MIGUEL POIARES MADURO

317 European Constitutionalism and Three Models of Social Europe

This paper reviews three models of the relationship between the constitutionalization of the project of European integration and social values. This analysis is also linked to different conceptions of the role of private law in the context of European integration. Finally, the connection between the forms of European constitutionalization and these alternative models of Social Europe are reviewed.

[Reviews]

MARTA KOŁODZIEJCZYK

344 Axiology in European Union Foreign Policy

SONIA LUCARELLI, IAN MANNERS, red., *Values and Principles in European Union Foreign Policy*, London-New York: Routledge 2007.

MARCIN WIECZOREK

347 Hard Partnership

ALICJA STĘPIEŃ-KUCZYŃSKA, *Rosja: ku Europie. Z problematyki stosunków rosyjsko-unijnych*, Toruń: Wydawnictwo Adam Marszałek, 2007.

STANISŁAW KONOPACKI

351 Adrift Europe

TOMASZ G. GROSSE, *Europa na rozdrożu*, Warszawa: Instytut Spraw Publicznych, 2008.

357 [Contributors]