

**BOOK REVIEW**  
**Miklós Király:**  
**Unity and Diversity: The Cultural Effects of the Law  
of the European Union<sup>1</sup>**

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As Walter Hallstein, the first president of the Commission of the European Economic Community, put it, ‘Europe is diversity’.<sup>2</sup> Although he made this statement primarily in relation to European multilingualism, we must add that, notwithstanding all heterogeneity, European integration rests on a specific cultural identity and common values. And now Miklós Király’s thought-provoking book provides us with the same message.

The objectives of the European Union (the EU) started as furthering economic integration, but the basically economic goals were later supplemented by social and cultural objectives. In addition, those values, traditions and cultural particularities upon which the EU is built are deeply rooted beneath the well-known economic goals. Culture seems like an underground stream that emerges from the soil onto the surface over and over again among the diverse areas covered by European integration. This phenomenon is excellently demonstrated by Miklós Király’s book.

Culture is constantly present, almost regardless of which area of economic integration is concerned. While in several fields, such as language policy, university education or the regulation of the book trade, this is

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<sup>1</sup> Eötvös University Press, Budapest 2011, pp. 304, ISBN: 978-963-312-045-3

<sup>2</sup> See Peter A. KRAUS, *Between Mill and Hallstein. Cultural Diversity as a Challenge to European Integration in Philippe van Parijs, Cultural Diversity versus Economic Solidarity* (De Boeck Supérieur, 2004) 299, 303.

straightforward, this is not any different in competition law, contract law or company law, where the European path of legal development largely depends on the similarity and diversity of national legal cultures.

The title of the book, ‘Unity and Diversity’, which refers back to the motto of the Constitutional Treaty, immediately raises the questions of which is stronger in EU law, unity or diversity, and how do these two forces co-exist.<sup>3</sup> Languages, families, national minorities and Christian churches - these are the areas where diversity is the most striking, even to laymen. But cultural conflicts lie also behind the difficulties related to the harmonisation of contract law or company law of the Member States. The reader gets the impression that all diversity in law is rooted in cultural conflicts. It appears that cultural conflicts within the EU are twofold. First, undoubtedly, there is a horizontal conflict between the legal cultures of the Member States. The soldering of these differences took place through the establishment of a ‘new legal order of international law’ that we now call EU law.<sup>4</sup> But then this gives rise to a new, second cultural conflict, a vertical one between the values and legal culture of the EU and those of its Member States. Indeed, behind any conflict between EU law and national laws there is a cultural conflict. However, the unifying force of integration is also spectacular. Good examples may be ensuring mobility in higher education and the possibility of providing and availing of legal services across borders.

In the choice of title, the author is modest. First, based on the title, one would expect a book on the cultural policy of the EU. Its cultural policy is discussed in detail in chapter XII, but the book embraces, among others, the issues of internal market law, competition law and contract law. Second, the focus is undoubtedly on EU law, but the author several times analyses the case law of the European Court of Human Rights, the conventions of the Council of Europe and UNESCO. Third, although the title refers to ‘The Cultural Effects of the Law of the European Union’, Király does not overlook that the cultural effects are bidirectional. Not only does EU

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<sup>3</sup> Treaty establishing a Constitution for Europe, art I-8 “The motto of the Union shall be: ‘United in diversity’.” OJ C310 of 16 December 2004.

<sup>4</sup> Case 26/62 *NV Algemene Transport- en Expeditie Onderneming van Gend & Loos v Netherlands Inland Revenue Administration* English Special Edition ECR I, B.

law have an impact on national laws, but national laws also influence the shaping of EU law. This is clearly demonstrated by the chapters on family law, where the differences in national rules on defining ‘marriage’ (as a union between two persons of the opposite sex or allowing the possibility of marriage for same-sex couples) are respected by the Court of Justice of the European Union (the Court) and where the divergence of national family laws hindered the emergence of a ‘European’ family policy. Another example is contract law, in relation to which the author accurately depicts how the harmonisation efforts may be distorted in the course of the implementation process.

An introductory analysis clarifies the complex relation between law (in particular EU law) and culture (Chapter I). Law is assessed as a cultural phenomenon that can at the same time shape culture, while culture is construed as overlapping circles, where the ever-expanding circles embrace the culture of the diverse groups in society, a nation or Europe. The author then scrutinises the most sensitive issues. Chapter II, on languages, discusses the linguistic regime of the EU and focuses on the distinction between authentic, official and working languages. Next it analyses the extent to which Member States are entitled to impose language requirements in the light of free movement rights and how language rights are treated in internal market law. In Chapter III, it is shown how the divergence of national family laws is reflected in EU law. In this field, the Court had to address questions such as the evaluation of the legal situation of unmarried partners<sup>5</sup> or same-sex couples<sup>6</sup> and the handing down of names.<sup>7</sup> This is followed by a chapter on minorities (Chapter IV), which lists the legal sources of the EU on minority protection and examines the issue of dual citizenship and the Hungarian Status Act, which intends to provide benefits for Hungarians living beyond the borders of Hungary. In relation to the Christian Churches, the author considers the debates on the insertion of any reference to the Christian roots of Europe into the legal sources of the EU (Chapter V). Additionally, some judgments of the Court

<sup>5</sup> Case 59/85 *State of the Netherlands v Ann Florence Reed* [1986] ECR 1283.

<sup>6</sup> Case C-249/96 *Lisa Jacqueline Grant v South-West Trains Ltd* [1998] I-621; Joined cases C-122/99 P and C-125/99 P *D and Kingdom of Sweden v Council of the European Union* [2001] ECR I-4319.

<sup>7</sup> Case C-148/02 *Carlos Garcia Avello v Belgian State* [2003] ECR I-11613.

are touched upon, where, among others, the affiliation to or the work for a religious community had relevance from the aspect of the free movement of persons.<sup>8</sup>

The question to be answered in Chapter VI is how EU law influences the national systems of higher education. The educational programmes of the EU and the Court's decisions on facilitating the mobility of students are the focus here.<sup>9</sup> This is followed by the examination of the recognition of legal diplomas and the regulation of the practice of the legal profession in terms of the freedom to provide services and the freedom of establishment (Chapter VII). The regulatory activity of the bars is also assessed from the perspective of competition law. Chapters VIII and IX touch upon two private law topics, contract law and company law, in the light of the diverging legal traditions of the Member States. In relation to company law, the emphasis is put on case law on the freedom of the establishment of companies (*Centros*,<sup>10</sup> *Inspire Art*,<sup>11</sup> *Überseering*<sup>12</sup> and *Cartesio*<sup>13</sup>), whereas the chapter on contract law summarises the arguments and counter-arguments for the legal harmonisation of contract law and enumerates the potential legal basis and means of legal harmonisation. The most interesting part of this chapter however is the discussion of the perspectives and limits of the development of European contract law. In Chapter X, the book trade is analysed from the aspect of competition

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<sup>8</sup> Case 196/87 *Udo Steymann v Staatssecretaris van Justitie* [1988] ECR 6159; Case 41/74 *Yvonne van Duyn v Home Office* [1974] ECR 1337; Case C-54/99 *Association Eglise de scientologie de Paris and Scientology International Reserves Trust v The Prime Minister* [2000] ECR I-1335.

<sup>9</sup> Case C-65/03 *Commission of the European Communities v Kingdom of Belgium* [2004] ECR I-6427; Case C-147/03 *Commission of the European Communities v Republic of Austria* [2005] ECR I-5969; Case C-209/03 *The Queen, on the application of Dany Bidar v London Borough of Ealing and Secretary of State for Education and Skills* [2005] ECR I-02119.

<sup>10</sup> Case C-212/97 *Centros Ltd v Erhvervs- og Selskabsstyrelsen* [1999] ECR I-1459.

<sup>11</sup> Case C-167/01 *Kamer van Koophandel en Fabrieken voor Amsterdam v Inspire Art Ltd* [2003] ECR I-10155.

<sup>12</sup> Case C-208/00 *Überseering BV v Nordic Construction Company Baumanagement GmbH (NCC)* [2002] ECR I-9919.

<sup>13</sup> Case C-210/06 *Cartesio Oktató és Szolgáltató bt.* [2008] ECR I-9641.

law<sup>14</sup> and the free movement of goods<sup>15</sup> primarily relying on the Court's decisions. Chapter XI bears the title 'Internal Market, Competition Policy and Culture' and address topics such as the assessment of cross-border television broadcasting, gambling and art trade in the light of the internal market law. Chapter XII constitutes an almost independent unit in the book and discusses the EU's cultural policy. The author here analyses not only those provisions of the Treaty establishing the European Community and now the Treaty on the Functioning of the European Union belonging under the title of 'Culture', but also the numerous cultural programmes of the EU and the role of the Council of Europe. Finally, the book finishes with a summary (Chapter XIII).

These highly diverse areas are put in synthesis through their cultural context. Although the book gives a comprehensive and accurate picture in its entirety, the chapters constitute separate units and may also be read individually. An 'added value' of the book is that the author points out several peculiar problems related to the Member States which acceded to the EU in 2004 and 2007. It suffices to mention here the issue of minority protection in Central and Eastern Europe, the extension of Hungarian citizenship to Hungarians living beyond the borders of Hungary and the absence of publication of legal sources in the languages of the new Member States in the Official Journal of the European Community after the accession of 2004.

One could say that culture does not know any limits. This might be true in an intellectual sense, but if we take an overview of this book, it becomes obvious that culture has to face limits as far as the regulation of European integration is concerned. Király illustrates this with a series of cases in which the Court did not take cultural considerations into account. Just one illustration of this is that the Court did not pay much attention to

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<sup>14</sup> Joined cases 43/82 and 63/82 *Vereniging ter Bevordering van het Vlaamse Boekwezen, VBVB, and Vereniging ter Bevordering van de Belangen des Boekhandels, VBBB, v Commission of the European Communities* [1984] ECR 19.

<sup>15</sup> Case 229/83 *Association des Centres distributeurs Édouard Leclerc and others v SARL „Au blé vert” and others* [1985] ECR 1; Case C-531/07 *Fachverband der Buch- und Medienwirtschaft v LIBRO Handelsgesellschaft mbH* [2009] I-3717.

the cultural character of books when assessing national rules on the book trade in terms of competition law and the free movement of goods.

The book is an outstanding legal monograph, but the reader can realise after a little while that it is more than ‘only’ a legal book. This is because the author offers an unparalleled opportunity for an intellectual journey around universal, European and Hungarian culture. We can learn not only about the formal rules of EU law connected to culture, but also about literature and history.

Unity or diversity? Reading this book makes us understand that there is no need for a choice between the two, irrespective of whether we speak about the free movement of goods, Union citizenship, family law, competition law or minority policy. Despite any differences in language, traditions or laws, European people share a common cultural core that spans centuries of our history and which nourishes our common future.