

COMMON MARKET LAW REVIEW

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Aims

The Common Market Law Review is designed to function as a medium for the understanding and implementation of European Union Law within the Member States and elsewhere, and for the dissemination of legal thinking on European Union Law matters. It thus aims to meet the needs of both the academic and the practitioner. For practical reasons, English is used as the language of communication.

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The editors will consider for publication manuscripts by contributors from any country. Articles will be subjected to a review procedure. The author should ensure that the significance of the contribution will be apparent also to readers outside the specific expertise. Special terms and abbreviations should be clearly defined in the text or notes. Accepted manuscripts will be edited, if necessary, to improve the general effectiveness of communication.

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Authors may be requested to submit a hard copy of their manuscript, in addition to a digital copy, together with a summary of the contents. Articles should preferably be no longer than 28 pages (approx. 9,000 words). Annotations should be no longer than 10 pages (approx. 3,000 words). The title of an article should begin with a word useful in indexing and information retrieval. Short titles are invited for use as running heads. All notes should be numbered in sequential order, as cited in the text, *Except for the first note, giving the author's affiliation. The author should submit biographical data, including his or her current affiliation.

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Patricia Popelier, Armen Mazmanyan and Werner Vandenbruwaene (Eds.), *The Role of Constitutional Courts in Multilevel Governance*. Cambridge: Intersentia, 2012. 312 pages. ISBN: 978-1-78068-106-1. EUR 75.

The European Union legal space is more and more interconnected, and theories such as constitutional pluralism or multilevel governance have become the buzzwords of the European integration scholars. This process has eroded many dicta of traditional Kelsenian legal hierarchy, including the position of the constitutional courts (CCs) as guardians of the constitutional supremacy. This edited volume, written by a collection of both experienced and younger experts, focuses on the developing role of constitutional review under external and internal pressures in a changing environment. While there have certainly been other texts dealing with the topic, more than 300 pages promise a thorough and complex exploration of the matter.

The book has 13 chapters. Rather than summarizing each, I will provide some general remarks on the concept of the volume and its usability. The editors' introduction presents the objectives and methodological approach governing the book, a part which is crucial for all edited volumes if they have an ambition to "hold together". The question of what courts qualify as constitutional was answered quite widely: it is any court that reviews acts for "compliance with fundamental tenets of a constituted (constitutional!) legal order" (p. 5), which covers the ECJ and ECtHR. In order to further delineate the topic, the contributions are grouped into four parts according to the CCs' functions: 1) CCs as guardians of fundamental rights, 2) CCs as watchdogs over the institutional balance, 3) CCs as forums for deliberation, 4) CCs as

regulatory watchdogs. Of course, one might debate whether CCs' roles are so neatly distinguishable (in particular: deliberation mixes with all others), but as an intention to apply a straitjacket on authors, the division makes sense.

The biggest drawback of the volume is that despite all abovementioned editorial efforts, the individual contributions are too diverse to form a coherent whole. Maybe it was caused by the workshop format of which the book is an outcome, but the chapters seem to accommodate primarily the priorities of their authors instead of editors' plan. The selection of CCs discussed in the book and the applied methodology are prime examples of this. As to the former, much emphasis is put on the ECJ and ECtHR, yet the coverage of national CCs of the EU Member States seems to be based on chance rather than careful selection. What is even more puzzling is that while the book has a clearly European (EU) overlap, selected chapters also focus on Latin American (Popelier and Patino Alvarez) or Armenian (Mazmanyan) CCs. As to methodology, several contributions compare multiple cases (e.g. Torres Pérez), some few cases (e.g. Vandenbruwaene), some are single case studies (e.g. Meuwese). The same could be said of subject scope: contributions that are very general and have an almost introductory character (e.g. Claes and de Witte) mix with chapters covering very specific issues (e.g. Meßerschmidt). Fragmentation of the volume is exacerbated by the lack of a bibliography, index, and, most disturbingly, even the briefest conclusion.

The critique should not outweigh the fact that the texts provide numerous valuable observations. The trends towards weakening of national CCs as compared with supranational ones, the shift from substantive to procedural review in case of regulatory oversight, the CCs' role as corrective mechanisms of political majorities are all well analysed. For me the most enlightening part was on the deliberative function of CCs, depicting the close relationship between public opinion and courts' judgments (e.g. Hoecke) which often verges on a populist attitude in order to gain public support against elected politicians (Mazmanyan). While above I doubted the logic of involving non-European cases, I must confess at the same time that these chapters give information about very non-conventional facts (e.g. the astounding positive access to justice in Costa Rica) which could broaden the knowledge of a reader focused on the EU environment. Normatively, the majority of authors firmly belong to current popular pluralistic camp, and argue for deepening dialogue among all levels of courts and involving multiple non-judicial actors and audience.

As is probably clear from my arguments, this is not a book one would enjoy reading cover to cover. It misses a unifying thread and message, contributions are too varied in scope and methodology. On the other hand, if the reader looks for specific topic covered by one of the chapters, (s)he may acquire invaluable original analysis. However, in light of book's limited universal usability and rather steep price (available only as hardback), the reviewed volume is in my view a typical example of a reference book to be found more in university libraries than on the bedside table.

Robert Zbiral
Olomouc

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