Prof. Dr. Roman Petrov

Exporting the Acquis Communautaire through European Union External Agreements

Nomos
<table>
<thead>
<tr>
<th>Table of Contents</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Table of Abbreviations</td>
<td>15</td>
</tr>
<tr>
<td>Abstract</td>
<td>19</td>
</tr>
<tr>
<td>Introduction</td>
<td>21</td>
</tr>
<tr>
<td>Chapter 1. Internal and External Dimensions of the Acquis Communautaire</td>
<td>26</td>
</tr>
<tr>
<td>1.1. Introduction</td>
<td>26</td>
</tr>
<tr>
<td>1.2. Evolution of the concept “acquis communautaire”</td>
<td>29</td>
</tr>
<tr>
<td>1.2.1. Historical background of the acquis communautaire</td>
<td>29</td>
</tr>
<tr>
<td>1.2.2. External dimension of the acquis communautaire</td>
<td>33</td>
</tr>
<tr>
<td>1.2.3. Concluding remarks</td>
<td>34</td>
</tr>
<tr>
<td>1.3. Conceptualising the acquis communautaire</td>
<td>35</td>
</tr>
<tr>
<td>1.3.1. Academic discussion about the context and meaning of the acquis communautaire</td>
<td>35</td>
</tr>
<tr>
<td>1.3.2. Concluding remarks</td>
<td>40</td>
</tr>
<tr>
<td>1.4. The internal dimension of the acquis communautaire</td>
<td>42</td>
</tr>
<tr>
<td>1.4.1. Introduction</td>
<td>42</td>
</tr>
<tr>
<td>1.4.2. The nature and scope of the “fundamental acquis”</td>
<td>42</td>
</tr>
<tr>
<td>1.4.2.1. Core of the “fundamental acquis”</td>
<td>42</td>
</tr>
<tr>
<td>1.4.2.2. EU founding Treaties’ objectives and the “fundamental acquis”</td>
<td>46</td>
</tr>
<tr>
<td>1.4.2.3. General principles of EU law and the “fundamental acquis”</td>
<td>47</td>
</tr>
<tr>
<td>1.4.2.4. Doctrines and concepts of EU law and the “fundamental acquis”</td>
<td>60</td>
</tr>
<tr>
<td>1.4.2.5. “Institutional acquis” and the “fundamental acquis”</td>
<td>62</td>
</tr>
<tr>
<td>1.4.2.6. Concluding remarks</td>
<td>63</td>
</tr>
<tr>
<td>1.4.3. International law and the acquis communautaire</td>
<td>65</td>
</tr>
<tr>
<td>1.4.3.1. International peremptory norms jus cogens, general principles of international public law and the acquis communautaire</td>
<td>65</td>
</tr>
<tr>
<td>1.4.3.2. International agreements and the acquis communautaire</td>
<td>66</td>
</tr>
<tr>
<td>1.4.3.3. Concluding remarks</td>
<td>69</td>
</tr>
<tr>
<td>1.4.4. The scope of the “Union acquis”</td>
<td>69</td>
</tr>
<tr>
<td>1.4.4.1. Elements of the “Union acquis”</td>
<td>69</td>
</tr>
<tr>
<td>1.4.4.2. Concluding remarks</td>
<td>71</td>
</tr>
<tr>
<td>1.4.5. EU “soft law” as a part of the acquis communautaire</td>
<td>71</td>
</tr>
</tbody>
</table>
2.2.5.2.2. The scope of the acquis communautaire to be implemented by Turkey  
2.2.5.2.3. Concluding remarks  
2.2.5.3. EC-Israel EMAA  
2.2.5.3.1. Objectives of the Agreement  
2.2.5.3.2. The scope of the acquis communautaire in the EC-Israel Agreement  
2.2.5.3.3. Concluding remarks  
2.2.5.4. EC-Tunisia EMAA  
2.2.5.4.1. Objectives of the EC-Tunisia EMAA  
2.2.5.4.2. The scope of the acquis communautaire in the EC-Tunisia EMAA  
2.2.5.4.3. Concluding remarks  
2.2.5.5. Conclusion  
2.2.6. Partnership and Cooperation Agreements (PCAs)  
2.2.6.1. Objectives of the PCAs  
2.2.6.2. The scope of the acquis communautaire in the PCAs  
2.2.6.3. Concluding remarks  
2.2.7. Cotonou Agreement  
2.2.7.1. Objectives of the Cotonou Agreement  
2.2.7.2. The scope of the acquis communautaire in the Cotonou Agreement  
2.2.7.3. Concluding remarks  
2.2.8. Trade development and cooperation agreements (TDCAs)  
2.2.8.1. Introduction  
2.2.8.2. EC-South Africa TDCA  
2.2.8.2.1. Objectives of the EC-South Africa TDCA  
2.2.8.2.2. The scope of the acquis communautaire within the EC-South Africa TDCA  
2.2.8.2.3. Concluding remarks  
2.2.8.3. The EC-Korea Framework Agreement for Trade and Cooperation  
2.2.8.3.1. Objectives of the EC-Korea Framework Agreement for Trade and Cooperation  
2.2.8.3.2. The scope of the acquis communautaire in the EC-Korea TDCA  
2.2.8.3.3. Concluding remarks  
2.2.8.4. EC-Mexico Framework Agreement for Trade and Cooperation  
2.2.8.4.1. Objectives of the EC-Mexico Framework Agreement for Trade and Cooperation  
2.2.8.4.2. The scope of the acquis communautaire in the EC-Mexico Framework Agreement for Trade and Cooperation  
2.2.8.4.3. Concluding remarks
2.2.8.5. EC-MERCOSUR Interregional Framework Cooperation Agreement (IFA) 178
  2.2.8.5.1. Objectives of the EC-MERCOSUR Interregional Framework Cooperation Agreement 178
  2.2.8.5.2. The scope of the acquis communautaire in the EC-MERCOSUR IFA 180
  2.2.8.5.3. Concluding remarks 182
2.3. Conclusion 183

Chapter 3. Substantive and Procedural Means of Exporting the Acquis Communautaire into the Legal Systems of Third Countries 187

3.1. Introduction 187
3.2. Substantive means of exporting the acquis communautaire into the legal systems of third countries 188
  3.2.1. Export of the fixed acquis into the legal systems of third countries 188
  3.2.2. Exporting the dynamic acquis communautaire into the legal systems of third countries 190
    3.2.2.1. Introduction 190
    3.2.2.2. Homogeneity 190
    3.2.2.3. Binding and soft-harmonisation commitments 196
    3.2.2.4. Approximation clauses 201
    3.2.2.5. Mutual recognition agreements 206
    3.2.2.6. Regional integration initiatives 209
    3.2.2.7. Concluding remarks 212
3.3. Procedural means of exporting the acquis communautaire into the legal systems of third countries 214
  3.3.1. Formal/informal involvement of third countries in the EU decision-making process 214
  3.3.2. Exchange of information 220
  3.3.3. Technical, administrative, and financial assistance on behalf of the EU to third countries 224
    3.3.3.1. Introduction 224
    3.3.3.2. Reforms of the EU technical, administrative and financial assistance to third countries (ENPI and DCECI) 225
    3.3.3.3. Technical, administrative and financial assistance within EU sectoral agreements 228
    3.3.3.4. Concluding remarks 229
3.4. Institutions set up within EU external agreements 230
  3.4.1. Introduction 230
3.4.2. The impact of common institutions set up under EU external agreements on the export of the acquis into the legal orders of third countries 230
3.4.3. Concluding remarks 236
3.5. Adoption of the acquis communautaire by judiciary in Ukraine. Case study 238
  3.5.1. The European Neighbourhood Policy and its impact on the adoption of the acquis communautaire by the judiciary in Ukraine 239
  3.5.2. Adoption of the acquis communautaire by the Ukrainian judiciary 241
  3.5.3. Concluding remarks 247
3.6. Conclusion 249
3.7. Overall conclusion 252

Bibliography 255

Table of Cases 263

Table of Laws 269

Annex I 277

Annex II 293