

majority of Member States did not make use of the faculty provided by Article 4, a few ones did; but they regulated the direct claim of the final seller in different ways (the Directive does not organize this claim), and it is very interesting to see how some countries introduced an extra-contractual claim while others chose a direct contractual claim. Besides, many national reports are not purely descriptive. Some reporters clearly advocate the introduction of a direct claim against producers in countries where no such claim exists (see e.g. Augenhof for Austria, Twigg-Flesner for England). This might not reflect the mainstream academic view in these countries but illustrates the open-mindedness that pervades the book.

This is also clear in the second part of the work, which takes "horizontal perspectives" on producers' liability. Setting free from pure legal dogmatics, four chapters look at the issue from very different angles: comparative legal history (Schermaier), behavioural psychology (Standorp and Grunwald), economics (Van den Bergh and Visscher) and private international law (Sendmeyer). This ecumenical approach is most welcome, especially for those lawyers who, like the reviewer, are not so familiar with non-legal social sciences. The various authors do not pretend to say what the optimal legal rules in the field of producers' liability are in all circumstances, but their contributions are actually all the more interesting as they distinguish various hypotheses, which do not always fit into the current distinctions made by the law. They thus point to the limits of a uniform rule. This may weaken the case for an introduction of direct producers' liability on a European scale, but it also makes clear the shortcomings of a refusal of such a liability grounded solely on privity of contract.

The comparative report of the three editors is a confirmation of that. Ebers, Janssen and Meyer do of course summarize, very thoroughly, the various national reports. They also synthesize the solutions of the various legal orders, both before and after the transposition of Dir. 99/44. This allows the reader to get an immediate picture of the solutions prevailing in the various legal orders. Most importantly, the editors gather the arguments for and against a direct claim against producers. To make a long story short, their conclusion is that a direct producers' liability for non-conformity caused by manufacturing defects or public statements should be introduced on a European scale. This, they argue, would both enhance consumer protection and distribute risks more fairly among the producer and the other sellers along the contractual chain. The precise features which should be given to this claim are also dealt with in some details, with the idea of maximizing its effectiveness and avoiding negative side-effects as far as is possible.

This book is therefore a very strong and authoritative plea in favour of direct producer liability for non-conformity and of its codification on a European scale within the Directive on Consumer Rights. The comprehensiveness of the work is impressive and the conclusions reached by the editors, though of course open to debate, cannot be easily dismissed. It remains to be seen, however, if they will receive the attention they deserve. The current uncertainties concerning the Directive on Consumer Rights, combined with the shyness of many Member States when it comes to loosening the grip of some well-established legal dogmas such as privity of contract, might well result in the issue of direct claims being set aside. One can only wish that this book will help avoid that.

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Julia Iliopoulos-Strangas: *Soziale Grundrechte in Europa nach Lissabon*. Baden-Baden: Nomos, 2010. 1.221 pages. ISBN: 978-3-8329-4984-6. EUR 178.

The academic discourse on the legal character and subsistence of fundamental social rights is vivid. The constitutions of many Member States of the European Union contain provisions on the right to social security, the right to work, the right to decent living, health, education or

equal opportunities as these rights are accepted and protected in the context of international law. However, legal questions on these issues are not entirely resolved insofar as the contents and the binding force of such provisions are still in question. Ten years after editing her first comprehensive study, *La protection des droits sociaux fondamentaux dans les Etats membres de l'Union Européenne*, Iliopoulos-Strangas has made anew a considerable contribution to the ongoing debate.

After a summary of the historical development of the welfare State, the opus provides 15 national reports on the protection of fundamental social rights in the "old" Member States of the European Union. The editor has succeeded in enlisting outstanding experts of the legal situation in the different countries – ranging from academics to practitioners like judges, lawyers and politicians – who examine not only the differing concepts of social rights and their historical localisation, but also reflect the legal sources of such rights, whether they are directly stipulated in a country's constitution – as is the case in Ireland, France, the Netherlands, Luxemburg and Germany – or the outcome of jurisdiction, common law or legal practice as in Belgium, Italy and Great Britain. The personal scope of application is attentively and deeply examined just as the addressees of the social rights. Finally, the legal contents of the different national law provisions are clearly elaborated. The uniform structure makes the national reports easily readable; it therefore provides a good basis for comparing the national structures. The remarks referring to the legal traditions and concepts are of special importance in this regard, enabling the reader to leave his/her national focus when reflecting the different passages and thus providing the necessary information for a special "European perspective" on the issue.

In a second part, Iliopoulos-Strangas subjects the findings of the national experts to a comparative analysis in the light of the new legal fundament of the European Union, the Lisbon Treaty, which has been approved in November 2009 and incorporated a range of social rights as well. The legal situation in the EU Member States does not offer a consistent picture. Social standards are diverging strongly. There is nothing like a common European tradition of social fundamental rights, not even of fundamental rights as such. The concepts range from defending state interventions in private interests to measures for inclusion as a right of taking part in a state's social system. The differences result from the conventional legal sources in the Member States and are thus historically determined.

The author relates all national provisions to parallel European regulations and comes to the conclusion that due to the strong integration and merging of national and international law, the different concepts, terms and relevance of the fundamental social rights have become intrinsically tied, are interacting and thus promoting the further development of the concept. She also succeeds in explaining the various expectations and concerns of political actors in the European process of law-making, which has become clearly visible in the controversial debate about the implementation of fundamental social rights into the Charter of Fundamental Rights of the European Union. This discussion has been biased between British reluctance and French advocacy, which had to be brought into concordance.

Despite the still prevailing differences in national law, the author states in her concluding remarks that – even though legal competences of the EU have always been and still are limited – the EC has undoubtedly contributed substantially to the development of strong social rights of the European citizens. The most important tools so far result from the anti-discrimination clauses and the fundamental freedoms that are laid down in the treaties. They have broadened the radius of workers and their families, students, pensioners but also of unemployed persons and thus considerably influenced their perception of and their willingness to claim social rights – not only when migrating within the European Union but also in their home countries. Conventional legal concepts like the principle of territoriality or the granting of social rights according to the citizenship of the claimants are overcome. The inclusion of the Charter of Fundamental Rights of the European Union into EU primary law might have an additional positive impact on the strengthening of social rights. This affects in particular those Member

States with a low protection mechanism for social rights as they might be forced – politically though not legally! – to adapt their regulations to the prevailing European standards.

Finally, Iliopoulos-Strangas states that in the age of globalization the “legalization” of fundamental social rights is an inevitable necessity despite all the discussion and discourses: the commitment to social protection is considered as a fundament to a humane policy and law-making.

The work is a compendium for those involved with studying the constitutional law of the European Member States in its special implementation as regards rights to social security and social inclusion. It gives a broad overview on the legal history and tradition of the Member States and thus makes a valuable contribution to the mutual understanding and appreciation of the difficulties in supra-national law-making.

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Sue Arrowsmith and Peter Kunzlik, *Social and Environmental Policies in EC Procurement Law*. Cambridge: CUP, 2009. 510 pages. ISBN: 978-052-1881-500. GBP 110.

“In developing public procurement policy, governments are often concerned not only with value for money but also with promoting their social and environmental objectives”. Right from the presentation of the book the focus is quite clear. Forty years of EU (and previously EEC and EC) procurement law have seen the emphasis squarely placed on best value for money as an instrument to open public procurement markets to competition. The past decade stands to show that this cannot be the all story and Arrowsmith and Kunzlik have edited what is the first comprehensive study on the other – and too often hidden – side of public procurement. Environmental and social aspects shapes what is now referred to as sustainable procurement.

The book is divided into twelve chapters. The first four are penned by the two editors or by Arrowsmith alone. They deal with the more general issues, while the rest is mainly due to other contributors and is devoted to more specific problems or areas of interest for sustainable procurement. The first chapter outlines the boundaries of green and social policies, exploring the space left to the Member States to pursue these policies. Chapter 2 is more a general outline of EU public procurement rules – both Treaty principles and directives – providing the normative setting for sustainable procurements. Chapter 3 differentiates between horizontal policies, in particular according to whether they merely comply with or go beyond existing general legal requirements on the one hand, and on the other whether they do or not do go beyond contract performance. Chapter 4 investigates the place of green and social considerations at the different stages of the procurement process.

Chapter 5 deals with the interferences between sustainable procurement and State aids. In Chapter 6 McRudden pleads the case for fostering equality through public procurements. Chapter 7 and 8 focuses respectively on disability and SMEs. Chapter 9 analyses the procurement of green energy while in Chapter 10 Wilsher offers a guide into the complex world of eco-labelling. Chapter 11 considers the wider space for corporate social responsibility – CSR left under the utilities Directive. Finally Chapter 12 opens a window on the new relations between procurement and criminal law made possible by the provisions on the exclusion of candidates and bidders for serious criminal offences. Case index and tables of legislative provisions are added. Case C-346/06 *Rüffert*, decided by the European Court of Justice when the book was already in print, is analysed in an editors’ note.

As the preface declares, the book is built from what were originally papers presented at the 2006 Nottingham Global Procurement Revolution. A lot of work has however be done to rewrite the different contributions in a way to give a coherent picture. Different chapters