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Tomasz Chmiel

Wydział Nauk Społecznych

Uniwersytet Przyrodniczo-Humanistyczny w Siedlcach

Hybrid Nature of the European Union Law System

Abstract: The essay is devoted to the law of the European Union. The essay discusses its history and the features that give the EU system a quasi-federal character, determining the unique, hybrid nature of the supranational organization in Europe.

Streszczenie: Esej poświecono prawu Unii Europejskiej. Esej omawia jego historię oraz cechy, które nadają systemowi UE quasi-federalny charakter, przesądzając o wyjątkowym, hybrydowym charakterze organizacji ponadnarodowej, jaką jest Unia Europejska.

Key words: EU law order, CJEU, Member States, Treaty of Lisbon, quasi-federal character

The European Union law is a well-established, integral part of the European culture maintaining unique features on a global scale. The European Union, being in fact a supranational organization, has its own, self-contained and autonomous legal order expressing, above all, an ever-closer and deepening political and legal relationship between the Member States. Launched in the 1950s as part of the European Communities and then developed by the European Union, the normative system remains a relatively new, constantly evolving set of principles, values and traditions with an unstable direction and dynamics of development.

The development of the European Union law derives from the specific goals of this organization as set out in the founding treaties. Their implementation in the form of the creation of the internal market required harmonization of law and, as a result, the establishment of a new type of legislative power functioning independently of the Member States. The supranational nature of the Union is the result of a gradual evolution leading to the

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extension of its competences in areas that go beyond the economic issues. The originality of the design of the EU law lies in the fact that, as a result of the delegation of the competence by the Member States, the EU institutions are law and exercise public authority in the Community. The structure and functions of the EU institutions are also unusual for traditional international organizations because of the most of its legislative nature the specificity of its legal acts (which mostly apply directly and are directly applicable in the legal systems of the Member States), as well as the functioning of the judicial power in the form of the Court Justice of the European Union (CJEU).

The EU law is a strictly European creation and is a characteristic combination of the continental law culture with the Anglo-Saxon system (common law). In the EU legal space there are parallel acts of law enacted by EU institutions, such as regulations and directives as well as case law

The EU law is an integrating law and, therefore, aims to link the legal systems of the Member States as closely as possible in the interests of achieving the goals set by the treaties. However, the unification of the law occurring in Europe observed as a result of the implementation of the integration project is not synonymous with building a completely new legal system, but a reference to previously formed national cultural sources.

The EU law remains a multidimensional order reflecting the complex structure and its undefined legal nature. It manifests itself in attempts to qualify into the categories of a supranational organization whose characteristic feature is the special concentration of competencies not found in other integrating organizations and, at the same time, the autonomy of its own legal order. The latter characteristic is expressed in the principle of the direct effect of the EU law norms and. as a rule, by the primacy of the right over the national law of the Member States. The European Union can also be attributed to a specific decision-making process related to the so-called secondary law by its institutions which have largely taken over the legislative powers of the national governments, both in the sphere of legislative initiative and decision-making. As a supranational organization, the Union strives to ensure the uniformity in the application of its law by its own judicial authorities and the effective supervision over the Member States' guaranteeing the effectiveness of this right in the internal sphere. Relative independence from the will of the Member States, also in the sphere of legal integration, provides the Union with the financial autonomy based on its own influence, including external duties, VAT etc.

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With the status of a supranational organization, the Union also exhibits features that bring it closer, in some respects, to a federal state. Attempts to classify the Union in terms of state, mainly due to the political conditions, are cited during the debates on the final result of cooperation between the Member States most often by supporters of the deepening integration that define the optimal formula for the functioning of the Union as a European federal state. However, the European Union does not meet the basic criteria of the statehood in the form of its own territory, population and supreme power. It remains an organization which subjectivity has a derivative dimension, derived from the political will of the Member States, which finds expression in the treaties (international agreements) constituting the basis of its functioning. The adoption of the formula of an international organization in the Treaty of Lisbon defining the legal nature of the EU eliminates the possibility of considering this structure in terms of statehood, which does not mean, however, that the Union has no federal structure: as an evidenced - the adoption of the common currency (euro) and Union citizenship. Nevertheless, the Treaty of Lisbon imposed the final form of the European integration process in the form of an international organization which scope of competence and structure is agreed between the Member States retaining the status of sovereign actors in the international relations. They can also withdraw from this organization, in fact, withdrawing their participation in the integration project.

The importance of the idea of federalism for the process of the European integration, including the process of shaping the EU law, cannot be underestimated. The order of this law has remained and is influenced by the doctrine and legal practice of the federal states, in particular the United States and Germany. It is also possible to indicate certain principles deriving from the idea of federalism that are applicable in other international organizations. These are, primarily, the principle of division of competences, supremacy of the law of an international organization in the events of collision with the law of the Member States, subsidiarity, proportionality and loyalty, which presence in the practice of other international organizations deprives the Union of the value of uniqueness. In addition, there are still areas where the Union, in fact, does not have real competences and the Member States exercise their full sovereign rights (e.g. language policy, culture, educational system, national security). There is also no doubt that the Union is an international organization which status and legal nature are defined by the Member States, since the EU does not have primary subjectivity appropriate only for the states. Secondary, the subjectivity here means that the

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Union has not been equipped with the power to define the scope of its competences, which remains the domain of the countries participating in the integration project.

The EU law is characterized by high developmental dynamics and, at the same time, strong rooting in the pan-European culture. Therefore, it refers to patterns from the past and, simultaneously, undergoes constant changes associated with the adaptation to the constantly changing realities of the present. The EU method of legal integration is an important instrument for harmonizing the cooperation between the Member States. It is not without significance, that the law created in the EU is a wholly separate, both, from the national legal systems, as well as the culture of law and case law. Therefore, the EU law creates a separate, transnational legal system and legal culture with the pan-European scope.

The legal doctrine various categories of the EU law are categorized, but the most common is the dichotomous division into primary and secondary (derivative) laws, as well as legislative and non-legislative acts. The first division is based on the criterion of the entity creating legal provisions. According to this categorization, primary law includes, above all, the law adopted by the Member States through international agreements (treaties), while secondary (derivative) law is the provision created by the EU institutions operating on the basis and within the limits of regulations contained in the pr

Summing up, the EU law is an integral component of the European culture. At the same time, it remains a specific mixture of the legal institutional system of intergovernmental, in fact, supranational organizations and that of the national law systems. As a multidimensional system it combines the features of a culture of law and common culture. By remaining an integrating law, it aims to link the national legal systems as closely as possible in the name of achieving the objectives of the Treaties. Deriving genetically from the international law, the EU law has its own specificity which is determined by, among others, the principle of granting, solidarity, proportionality and respect for the identity of the Member States. The Community acquis covers all legal norms regulating the functioning of the European Union with a crystallizing hierarchy of legal acts, at the top of which there are treaties determining the foundations of the functioning of the EU. At the lower level there are international agreements that the Union concludes with the third countries or other international organizations. The second place is taken by the secondary legislation created by the EU institutions within the limits set by the treaties. The legislative acts should be placed at the top of this category, followed by the non-legislative and non-binding acts. The derived EU laws

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are usually created in the form of binding acts, i.e. regulations, directives and decisions, as well as non-binding recommendations and opinions. The statutory law, both primary and derivative, remains so, while the impact of the common law system is evident in the jurisprudence of the EU Court of Justice, which judgments have binding force on the Member States, and which is the source of many basic principles shaping the EU legal system. The relation of EU law to the legal systems of the Member States is based on the principle of the priority of the first-mentioned law in the events of conflict with the national law. The direct value, in turn, allows individuals to recall the provisions of this law in the proceedings before the national authorities. These features give the EU regime a quasi-federal character, prejudging the unique, hybrid nature of the supranational organization, which the European Union is.

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