

BOOK REVIEW: Sonia Morano-Foadi, Lucky Vickers, Fundamental Rights in the EU: A Matter for Two Courts, Oxford and Portland: Hart Publishing, 2015; ISBN:9781782258902, 252 pages (digital edition)

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There are a lot of subjects on the European Union's public agenda but fundamental rights is a topic discussed both by the researchers in legal sciences and in politics. On the other hand, fundamental rights are a basic part of a democratic regime and it contributes to the establishment of civilised relationships between individuals. Even if these are treated in a liberal vision, in a socialist manner or from a conservative position, fundamental rights define the global society in which we live today.

Sonia Morano-Foadi and Lucky Vickers come with a new perspective regarding this subject and they combine the judicial interpretation with the political analysis by using a sophisticated research apparatus. A clear positivist approach is relevant to prove the role of human rights in construction of a democratic regime in the European Union. As it is mentioned in the preface, „This collection joins the new and expanding scholarship on the protection of fundamental rights in Europe and reflects on the relationship between the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECHR). The book questions whether the changes introduced by the Lisbon Treaty align the CJEU to the ECHR's interpretation and methods, triggering different processes of institutionalisation within a coherent European system”.

The volume is consisting of an introduction and two major parts including a series of articles written by researchers in law and politics from the entire Europe. Sonia Morano-Foadi, Lucky Vickers, Niilo Jaaskinen, Stelios Andreadakis, Oreste Pollicino and Samantha Velluti are some of the contributors who analyze the features of the European democracy through the implications of human rights. Their writings are focused on the political traditions in Western and Eastern Europe, the judicial and political elements of the EU's democracy, the protection of citizens against the abuses of the state, the problems of the EU's accession to the European Court of Human Rights, the protection of fundamental rights in the new digital era and its challenges, the human rights in the context of

migration, the risks of erosion of human rights due to the proliferation of populism and the extremist parties in some European countries. Writing on the risks of erosion of human rights standards, Titia Loenen and Lucky Vickers state that these „are generally well protected in Europe. Since World War II human rights protection mechanisms have been set up and improved over time, both nationally and at the European level. In the latter context the European Convention of Human Rights has played the most prominent role, but more recently the European Union has become an ever more important player in the field. (...) Although the enlarged opportunities to invoke human rights would suggest that this aim will be fulfilled, this chapter argues that this may not, in event, be the case. This is because of the risk of adverse effects from the fusing of European competencies, in particular the risk of a lowering of substantive human rights protection notwithstanding increased procedural possibilities to make human rights claims”.

Another theme with a great impact on the public agenda – and discussed here – is the role of fundamental rights in the process of migration; in recent years Europe was colonized by a numerous population coming from Syria because of the civil war. The integration of these groups created a dilemma regarding their equality in rights with the autochthonous citizens. Most problems were created by the illegal migrants, for which the European Union was forced to apply restrictive laws and regulations. The chapter written on this subject by Sonia Morano-Foadi aims „at an understanding of the relationship between control of migration and respect of fundamental values. Combinig empirical findings and case law on migration and human rights, this chapter reflects on the extent to which the European Court of Human Rights and the Court of Justice of the EU, in addressing issues of migration when a human rights element is under scrutiny, take a coherent approach”.

This volume is very usual for students because it offers a large collection of information and interpretations on the ways in which the European Union and its institutions implement the fundamental rights. Many politicians say the democracy is conceived for the people and the protection of their rights is necessary to prevent any turnout to a form of authoritarianism or populism. From this point of view, the populists affirm that it is their merit to deserve the citizens but, if we look carefully, we observe that they do not have the proper legal instruments to do this. In conclusion, the book must be read in the light of distinction between a legal and consolidated democracy – where the human rights are respected – and a political regime featured by personal authority of politicians, arbitrary decisions and systematic violations of the citizen’s rights.