

IJPL - Editorial (1-2009)

European legal "integration" has not only created a new legal order, that of the Community, and now of the Union. It also affects principles and structures within national legal orders. It strengthens the relationships between national legal orders. After the European Court of Justice, for example, included proportionality amongst the general principles of law common to several member States, it became a general principle of EC law, that must be respected throughout the Union. Likewise, where mutual recognition - or, more precisely, functional equivalence - is provided for under EC law, this produces effects within national legal orders. Thus, an administrative decision in a State (e.g. the granting of a driving licence) has legal validity within the others, regardless of national borders. More recently, we have witnessed the increasing importance of a new kind of dynamic, in which national legal orders, interacting with one another through the medium of case-law, are building shared jurisprudential understandings.

Today, the environment is much more favourable to exchanges between legal cultures and, thus, to legal cross-fertilization or (when viewed with suspicion) "contaminations". These processes enhance the role of higher jurisdictions, at both the European and the national level and facilitate a deeper inter-court dialogue that in some respects, resembles that which occurred during the period of *jus commune*. Although this kind of historical parallel may be intellectually controversial, it is beyond dispute that the growing interdependence between legal orders and cultures challenges the validity of traditional assumptions, such as the exclusivity and completeness of each national "system", while accentuating demands for new forms of networking and communication.

The growing globalization of the law will have similar effects. Globalization is transforming the structure of international law, while creating the potential for new connections between national legal orders. At the same time, most of us recognize the need for global law to preserve the distinctive features of cultural traditions at the core of our legal systems. Today when judges are confronted with new "hard cases", they will typically take into account the practice of other legal systems, in order to draw inspiration for resolving the dispute, while demonstrating fidelity to the values of their own system. This is one mechanism through which general principles of law are migrating, and diffusing as general principles of global law. As a consequence, the traditional national dimension of legal orders and legal cultures has been broadened.

The aim of the *Italian Journal of Public Law* is to serve as a bridge between legal cultures, to become, in effect, part of this new, discursive, transnational network. This explains the choice of English as the working

language, and the related intention to ensure that the Italian legal tradition will have a voice in the global legal conversation, and to make available the Italian legal experience to a much wider audience. For these reasons, too, we will devote considerable attention to leading scholars of the past, with a view to promoting a more widespread of these foundational works. In considering Italian scholarship from a comparative perspective, we hope to stimulate further reflection on the achievements of legal scholarship to date, as well as possible lines for future development. Such development includes, of course, the specific features of public law, understood in the broadest sense of the term. A broad interpretation is necessary at a time in which the divide between public law and private law is constantly being debated, questioned and refined. Adequate attention is needed, too, for the growing interaction between national, EC and global law.

Although the IJPL is published in Italy, it is open to contributions from lawyers and social scientists from all over the world. Some have already accepted invitations to work with our scientific committee, while others have provided valuable advice as referees. We hope that many others will follow and therefore strongly encourage the submission of studies, comments and review articles on all areas of public law. The best of these contributions will published in the IJPL, coming out twice yearly, with the possibility of further special issues to be explored, beginning next year.

The editors
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