

TOWARDS A EUROPEAN CIVIL CODE

*Arthur Hartkamp, Martijn Hesselink, Ewoud Hondius, Carla Joustra,
Edgar du Perron, Murriel Veldman, editors. 3rd Ed.
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The establishment of the European Court of Justice, the introduction of the Euro currency, and the liberalization of state-boundary inspection especially within *Schengen* has taken the European Union a great leap. The frontiers between the member-countries of the EU are rapidly losing their significance. But, they remain separated by diverse legal systems. A common legal code throughout Europe needs to unify these legal systems, an imminent possibility that seems to be inescapable. Thus, given the above circumstances, the great debate: *Leuropa dei codici o un codice per l'Europa?* A Europe of codes or a code for Europe? ***Towards A European Civil Code*** answers this question.

However, ***Towards A European Civil Code*** throws more complex questions. How can 'un codice per l'Europa' exist in the midst of the Swiss *Zivilgesetzbuch*, French *Code civil des Français*, Austrian *Allgemeines bürgerliches Gesetzbuch*, German *Bürgerliches Gesetzbuch*, Italian *Codice Civile*, Greek *Αστικός Κώδικας*? For more than 100 years there have been in principle, many legal systems in Europe as there are national states, how can a European Civil Code be feasible when legal bounds have become identical with the political borders?

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Towards A European Civil Code is an international legal classic of provocative ideas, pushing the reader's mind to be open to a lot of alternatives. While an Italian author declares: "*Riconoscescere che un codice per l'Europa è non alternativa realistica,*" another believes that: "What is needed at present is a framework within which all these efforts can be placed. This can be established by a European Civil Code... The time has now come to adopt such a Code."

The book tries to cover almost all subjects dealt with by civil law. It elaborately discusses substantive laws such as the unification of family law, including harmonization of the law on succession, contracts, agency, tort, property, trust, and even the status and perspective of corporate and business law in the EU. But, the European Civil Code which it envisions does not mean just a code of the several EU directives and regulations. Rather, it refers to a new, complete and coherent, set of rules. The EU directives are collective legislative acts, which require member states to achieve a particular result through harmonization, while regulations are self-executing and do not require any implementing measures.

A law student who wants to deepen his knowledge in civil law will find rich information from the book in as much as it discusses the history and the future of the civil law system.

It highlights, for example, the significance of the Roman law legacy. With most of the law schools deleting Roman Law from the curriculum, the European legal scholars try to hold on to the legacy of the Romans. As one contributor puts it: "Finding the commonality in the law as a system of rules enacted for, and applicable in the union level, is not impossible. After all, such move will just be a form of re-Europeanization of private law instead of its Europeanization. For a common European culture, centered around a legal scholarship and legal practice that were informed by the same sources did once exist..."

The drafting of the European Civil Code must necessarily incorporate lessons learned from the past in order to accomplish the challenges of the future. There are many basic questions to be explored. The codification of the Civil Law is not however, only a legal question. It is also a political one. *Towards a European Civil Code* manifests a transparent and democratic way of codifying laws, vigilant of man's limited know-

ledge, open that no man has the monopoly of truth, aware that the desire for goodness cannot be imposed by a single mind. *Towards a European Civil Code* is a living reflection of a Europe in need of a unifying code to respond to the growing complexity of civilization, the increasing demand of citizens for lesser interference in their private affairs and the realization of their governments of the necessity to liberalize more their laws – laws which even break political boundaries.