European Review of Private Law 1-2012[1–2] © Kluwer Law International BV. Printed in the Great Britain.

Editorial

There Is Nothing Like European Private Law 20 Years Later

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This issue is the first issue of the 20th volume of our review. Although it is only after completion of this volume that we are entitled to celebrate the 20 years of our journal, I nevertheless take the opportunity to look back. It is indeed already 20 years ago that my father (Marcel Storme) and Ewoud Hondius joined forces to found a journal for a discipline that, according to the dominant opinion at that time, did not exist: European private law. The European Union did not exist yet. On the level of the European Community, with only 12 Member States, there were some Directives on consumer law and a few other ones. There were no Regulations on international private law or European procedural law. Neither the first edition of the Unidroit Principles for international commercial contracts nor the first part of the Principles of European Contract Law was published already. The expression Common Frame of Reference was not coined yet.

Yet, the first issue of our review was already dealing with what would become the main legal developments or problems in private law in the next 20 years: the relationship between harmonization and international private law, judicial activism, principles of law in the case law of European courts, integration of harmonized law in the national legal systems, and the principles of European contract law.

On the other hand, it may be highly symbolic that we started the first volume with articles on codification and recodification, while we start the 20th volume with a series of articles on the growing complexity of transnational sources (to which I add an article by myself on private law in a multilevel structure). We may have thought 20 years ago that through harmonization, private law would become simpler; there is a growing awareness today that rather the opposite happened. In many respects, lawyers have to function in a context that resembles more the situation in the sixteenth century than the situation of the twentieth century. There is a plurality of sources, vertical as well as horizontal: from global (*ius commune*) to local (*ius particulare*) sources of law and from pure state law to influential private codifications. There is no clear hierarchy, no Grundnorm, but competing claims for supremacy (European and constitutional laws) and competing 'principles' in the sense of values. There are wars between judges, or rather courts, as colourful as in

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the fifteenth, sixteenth, or seventeenth century. On the one hand, legislators have never been as powerful as today, even capable of changing a man into a woman, and indeed turning whole libraries into mackle; on the other hand, the law and its enforcement seem to escape from them more than before, and the democratic legitimacy of the law production has dramatically diminished. The notion of law itself has become more ambiguous than before: not even the most pragmatic definition of all, defining law as what lawyers do, seems to hold out. The idea of private law itself has come under pressure from political powers that have imposed principles of public law on the private spheres, but public law itself increasingly fails to bring order. I am convinced that the role of private law will therefore increase again in the next 20 years. Nonetheless, anyway, are we not experiencing fascinating times?