

## ***BOOK REVIEW***

# **Petra Lea Láncoš: The Many Facets of EU Soft Law**

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The concept of soft law has intrigued legal researchers for many decades. It is a concept that is perhaps most often associated with international law, though even the origins of the term are not fully certain.<sup>1</sup> Soft law is however also a factor in the autonomous supranational legal order of the European Union, although the EU is much more known for its ‘hard’ legislative competences and occasionally even a tendency to ‘overregulate.’ However, soft law is also enshrined in the EU legal order at various levels – some of the EU’s competences are ‘soft-ish’ to begin with, and secondary EU law may take the form of non-binding opinions and recommendations.

Yet the status and relevance of – and various actors’ reliance on – EU soft law is far from being a simple issue. In her monograph entitled ‘The Many Facets of EU Soft Law’,<sup>2</sup> Petra Lea Láncoš undertakes to provide a thorough and multifaceted analysis of EU soft law.

The monograph starts by taking stock of existing research on the subject – this literature review makes it clear that there is a definite need for a systematic examination of EU soft law. But why adopt soft law in the first place? What good is the law if it is not ‘hard’? The author answers these obvious but difficult questions by analysing the underlying strategies of adopting non-binding norms in the EU. Láncoš delves into the depths of the legal nature of both formalized (i.e., enshrined in Article 288 TFEU) and non-formalized soft law, giving insight into how the Member States, EU legislative bodies, and the Court of Justice of the EU utilize soft law – and providing quite illustrative examples, predominantly from the field of EU media law. CJEU case law is further analysed in light of the practical effects of soft law, where the bottom line of the Court’s approach seems to be that measures that are not legally binding can nevertheless not be regarded as having no legal effect at all. This view partly overlaps with the ‘spectrum approach’ mentioned in the monograph as well.<sup>3</sup>

The author devotes considerable attention to the strange case of what she calls ‘directive-like recommendations’, which, regardless of their non-binding nature, often proclaim a desire of implementation. As a case study, the Hungarian legislative approach to these measures is also analysed, representing an added value, especially for non-Hungarian researchers. The Hungarian case study is further followed up in the chapter dealing with the use of EU soft law in the member states. That chapter also offers an insight into the ‘reception’ of soft law in specific policy fields such as

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<sup>1</sup> Cf. Jean d’Aspremont, *Softness in International Law: A Self-Serving Quest for New Legal Materials*, *European Journal of International Law*, Vol. 19, No. 5, 2008. pp. 1075–1093, who debates whether the term can indeed be traced back to Lord McNair, as many believe.

<sup>2</sup> Petra Lea Láncoš, *The Many Facets of EU Soft Law*, Pázmány Press, 2022.

<sup>3</sup> See, e.g., Lorne Sossin – Chantelle van Wiltenburg, *The Puzzle of Soft Law*, *Osgoode Hall Law Journal*, Vol. 58, No. 3, 2021. pp. 623-668. and Láncoš 2022, pp. 14-15.

competition policy, focusing on fining policies for anti-competitive conduct in a number of selected Member States. The monograph concludes with the findings on this latter topic, emphasizing among other things that spontaneous approximation as a gap-filling method will no doubt continue in the context of the ECN+ Directive.<sup>4</sup> The monograph contains no additional concluding chapter, something the analysis could have benefitted from by bringing together the various strands of analysis explored throughout the book.

Overall, the monograph is a welcome addition to the relatively scarce research on soft law in the EU legal order and can be recommended to anyone aiming to gain deeper knowledge on this subject. With a firm grip on both theory and practice, Petra Lea Láncoš's work can be useful for not only academics but practitioners as well.

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<sup>4</sup> Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market OJ 2019 L 11.