

The applicable (European) law as 'Hidden Civil Law' (new book)

Roel Westrik, associate professor of private law at Erasmus School of Law, is the author of a noteworthy book that presents an original approach to the applicable European law in "Hidden Civil Law. How can you know what the applicable law is?" (Paris, 2016). The abstract reads:



Lawyers are taught to work with applicable law and to be familiar with the applicable law, they should 'keep up to date with their literature'. Here, in two sentences, the reality and ways of working of lawyers throughout the past century. Past because, in contemporary times, applicable law can no longer be easily 'recognised'. There is a knowing problem related to applicable law of European origin. This problem consists in two main questions: How are lawyers to know what applicable law is? And, if there is a presumption of 'other' applicable law when practising 'national law', where is it to be found?

These questions must be posed in every case, every advice to be written as well as judgments and rulings that have to be pronounced. What, in a specific case, is the prevailing, applicable law irrespective of whether its origins are national or European?

The acknowledgement that these questions must be posed in advance, before 'solving' any case, will make great strides in the current ways of working and classification of legal areas. Also, it will pay scant attention to the existing approach where 'European law' is seen as corpus alienum, which influences national law from 'outside' and creates a 'Hidden Civil Law'.

A message is sent to the legal world of civil law: Wake up! European law is part of national law and should be studied as applicable law. It should be recognised and implemented rather than being taken as a separate supplement under the flag of 'IPL, European law or its impact'. It is applicable civil law!

More information is available [here](#).