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PHELAN, WILLIAM: GREAT JUDGMENTS OF THE EUROPEAN COURT OF JUSTICE. RETHINKING THE LANDMARK DECISIONS OF THE FOUNDATIONAL PERIOD. CAMBRIDGE UNIVERSITY PRESS, 2019/ Ondrej Blažo

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William Phelan, currently Associate Professor at the Trinity College Dublin, focuses in his research on European legal history, particularly the creation of the EU legal order via judicial activism, as well as trade policy within the ambit of the WTO and its interaction with the EU legal order. Several papers published on these topics are worth mentioning: Why do the EU Member States accept the Supremacy of European Law? Explaining Supremacy as an Alternative to Bilateral Reciprocity, *Journal of European Public Policy*, 18, (5), 2011, p766 – 777; Open International Markets without Exclusion: Encompassing Domestic Political Institutions, International Organization, and Self-Contained Regimes, *International Theory*, 3, (2), 2011, p286-306; What is Sui Generis about the European Union? Costly International Cooperation in a Self-Contained Regime, *International Studies Review*, 14, 2012, p367 – 385; Supremacy, Direct Effect, and Dairy Products in the Early History of European Law, 2014; In Place of Inter-State Retaliation: The European Union's Rejection of WTO-style Trade Sanctions and Trade Remedies , Oxford, Oxford University Press, 2015, 1 - 208pp; Supremacy, Direct Effect, and 'Dairy Products' in the Early History of European Law, *International Journal of Constitutional Law*, 14, (1), 2016, p6 – 25; Diagonal Enforcement in International Trade Politics, 2016. In a such subject of research it is inevitable to become fascinated by the work of Robert Lecourt whom W. Phelan devoted several of his papers, e.g. The revolutionary doctrines of European Law and the Legal Philosophy of Robert Lecourt, *European Journal of International Law*, 28, (3), 2017, p935 – 957.

These three lines of research joined together in Phelan's monograph "Great Judgments of the European Court of Justice. Rethinking the Landmark Decisions of the Foundational Period" published by Cambridge University Press in 2019.

Reference made to "rethinking" the great judgments of the European Court of Justice is definitely provoking and captivating for the reader. Particularly in these days when even solid pillars of the European integration are "rethought": rule of law and values of the EU are "rethought" by Mr. Orbán's Hungary, independence of judiciary is "rethought" by Mr. Kaczyński's Poland and the supremacy of the EU law and judicial monopoly of the Court of Justice of the European Union are "rethought" by the Federal Constitutional Court of Germany (and also under scrutiny of the Constitutional Tribunal of the Republic of Poland). Phelan's monograph is positively not about this type of rethinking (although unescapably he had to deal with the questions of the approach of the Member States' constitutional courts to supremacy of the EU law over the constitutions of the Member States. Thus W. Phelan's book is more on "reminding" us of the greatness of judgments of the foundational period of European integration and monumentality of the intellectual activity of judges and other lawyers at the European Court of Justice and it is more about contemplating on landmark judgments rather than rethinking in the sense of challenging them.

The way how W. Phelan "rethought" landmark judgments is explained in the introduction of the monograph – "...identify the European legal order's special distinctions based on concrete divergences from the fundamental organizing principles of more common forms of international trade treaty." (p. 1) "Rethinking" is therefore the return back to the roots of the European integration, the European integration that departed from traditional international-trade-treaty model to create something *sui generis*. W. Phelan shows us that individual-centred model of integration was not its intentional and primary goal, but a unique solution provided by the landmark judgments of 1960s and 1970s aimed to strengthen and vitalize the common (single/internal) market. Therefore, the impact of these judgments is twofold: they glued European states together into a common market prohibiting them unilateral solutions (traditional for international law) and they involved an individual as a central enforcement power of the European integration who can claim their rights at national courts.

W. Phelan like a medieval bard tells a story of nine landmark judgments: Pork Products of 1961 (7/61), Van Gend en Loos of 1963 (26/62), Costa v. ENEL of 1964 (6/64), Dairy Products of 1964 (90&91/63), International Fruit of 1972 (21-24/72), Van Duyn of 1974 (41/74), Simmenthal of 1978 (106/77), Sheep Meat of 1979 (232/78) and Internationale Handelsgesellschaft of 1970 (11/70). The story of each of the judgments is described more-less in the same structure: situation setting, Advocate General's opinion, rationale of the judgment, context in the case law (i.e. judicial "predecessors" and "successors" of the judgment in issue) and finally the confrontation of the solution of the European integration model vis-à-vis international-trade-treaty model. Although some can consider this structure of chapters too repetitive and too rigid, this firm framework is the hidden beauty of W. Phelan's work – storytelling. Storytelling about heroes (Robert Lecourt and his fellows and successors) battling together against fragmentation of the European market, gluing Europe's nations together in order to avoid falling to the spiral of economic and political selfishness that could have led to another violent conflict. W. Phelan tells us the story of every judicial case as a new challenge for "our heroes", describes their victory, the consequences of their actions and finally contemplates and provides a "moral", i.e. his own evaluation. Within this framework, comprehensive and articulated analysis develops, discussing and confronting literature from the times of R.

Lecourt and his companions to the 21st century and thoughts of R. Lecourt appear as a silver thread across the whole book.

Along with the abovementioned constant framework of all chapters, W. Phelan uses unique instruments for argumentation, e.g. comparison of the structure of Van Ghend en Loos judgment and International Fruit judgment (pp 140-142) or "International Fruit in reverse" (p. 148) that, in W. Phelan's opinion, conveys the logic of direct effect rather better than the text of Van Ghend en Loos itself (p. 149).

The selection of the "landmark" judgments is apparent – judgments as Van Ghend en Loos, Costa v. ENEL, Van Duyn, Simmenthal or Internationale Handelsgesellschaft are well-known by every law student in the European Union. However, some of them, in particular Sheep Meat, was elevated to the "pantheon" of the European judgments by W. Phelan on the same criteria that apply to all judgments analysed in the book – whether they explained departure from traditional model of trade treaty and contribution to the new legal order/legal order of its own.

The analysis of stories of nine landmark judgments is crowned by the final essay "States and Individuals in the Great Judgments of the European Court of Justice, 1961-1979". In this essay the author suggests that understanding of early judgments of the European Court of Justice as mere tools to accomplish the economic purpose of the Treaty of Rome rather than purely focused on the rights of an individual per se may perhaps disappoint some readers (p. 234). It cannot and may not. These judgements helped to remove frontiers between nations just sixteen years after the end of a bloody war and employed individual rights of an individual as a tool for amalgamation of national economies, only sixteen years after an era, when rights of an individual were diminished and almost annihilated. Hence these judgments became a cornerstone not only for European integration itself but also for the longest period of peace in Europe. Moreover, this understanding of the landmark judgments shows why the European integration is unique in contrast to other "trade blocks".

Indeed, the development of the European integration has moved steadily forward from the times of 1960s and 1970s and value-oriented and individual-oriented legal framework is embedded currently in the Treaty of Lisbon and one could argue why W. Phelan did not confront the landmark judgments with the current legal situation. The answer is, in fact, provided by the author himself – the book is more about departing and differentiation from the traditional international-trade-treaty system rather than on efforts to create a new legal system.

Finally, even though W. Phelan states that the book is neither a casebook nor a coursebook (p. 12) it can be definitely recommended for reading to students of advanced studies in the European Union law who have relevant understanding of the content and context of the landmark judgments of the European Court of Justice.

