

■ BOOK REVIEW

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Alexander Somek, *Individualism: An Essay on the Authority of the European Union*, Oxford University Press, 2008, ISBN 978-0-199-54208-6, 336 pp.

With his new book Alexander Somek, Professor of Law at the University of Iowa, College of Law, offers an in-depth analysis of the authority of the European Union. The book is written from the perspective of a philosopher and tackles problems of European Union Law, political science and political philosophy. The text is profound and complex, so not easy readable. There are many parts, where reading and rereading again is required. The definition of "individualism", the eponymous notion, is offered on pages 2 and 3. For Somek "individualism" means: "the belief that what matters to life is personal advancement and the happiness of those to whom one feels personally attached, be they members of the family, fellow believers or, indeed, pets." He states that from the individualistic perspective "the claims made by society at large are met with skepticism, possibly because individualists are generally even skeptical as regards the existence of a collective called 'society'" (pp. 2-3).

Somek begins his book with Plato's and Aristotle's political philosophy from which he concludes "that the meaning of authority is best revealed from the perspective of its model subordinate" (p. 2). This is the first core idea of Somek's approach. The second one says that in order to understand authority there has to be examined "how a certain type of authority becomes expressed in the exercise of legally constituted power" (p. 2). In combination, both ideas say that a look at the citizens as they are (mostly implicitly) constructed by a constitution reveals the type of authority that is established in a political system. Following these ideas and applying it to the European Union, Somek suggests "that the power of the European Union [...] is best understood with reference to the life that it fosters" (p. 2). The main line of thought starts with an analysis of legal power. Somek explicates this notion in terms of authorization and connects it to the idea of the *pouvoir constituant* (p. 27). According to him, justified authority depends on the people, who in order to fulfill his definition must take it for granted that the acts of the authority could be theirs if only they were in the same position or had the expertise of their agents. Therefore, authority depends on who we think we are when acting as citizens.

Starting with chapter 3 Somek elaborates on citizenship and risk (p. 33), notably on risk regulation. For heuristic purpose only – as he puts it (p. 3) – he discusses a particular matter of risk regulation, namely tobacco control legislation (p. 61 et seq.). He obviously regards this as a kind of "model organism" and spots a "fundamental paradox of tobacco control policy", lying in the fact that smokers "react inadequately to information about long-term smoking risks unless

there is legislation or other government action that publicly demeans them." (p. 5). According to Somek, tobacco control policy poses a two-fold morality problem because in essence this regulation sets a moral standard for a reasonable person and this could be immoral, because it is questionable whether any government or international organization "should have a hand at publicly reprimanding a segment of the population or at debunking citizens as fools" (p. 5).

In chapters 6 and 7, Somek addresses what he regards as an underpinning idea of the new legislation of the European Court of Justice and what he calls "market holism" (cf. p. 110). For Somek, this is the antagonist to market liberalism (cf. 90-92). In chapters 8 and 9, he tackles European Constitutional Law, especially seen from the perspective of citizens. Chapter 10 is devoted to the idea of European citizenship. Here, Somek introduces what he calls "Tocquevillian homogeneity". This notion stands for the view that the type of authority in question is associated with certain conceptions of the citizen's self and how life is to be lived in order to be a success. This reveals Somek's understanding of the social system guaranteed by the European Union, because it "amounts to a commonly shared attitude towards society that is compatible with individualism." (p. 2). In chapter 11, the stereotype of the Freudian slip is used as an idea for further analysis (p. 12-14 and p. 231). Somek states that "[Freud's] model of interference and compromise can be usefully transferred to legal analysis" (p. 13). Following this, he finally arrives at three types of normativity, i.e. the normativity of distress, of self-government, and of approximation (cf. p. 228 et seq.). At the end of the book, the European caring state model (chapter 12) and some of its historical aspects (chapter 13) (cf. pp. 245 and 265) are discussed.

With this book Alexander Somek has presented a text full of creative ideas, original suggestions and unexpected turns. Such a book can only be written by an author with an extraordinary education and knowledge. It can scarcely be overestimated that Somek is probably one of the few persons who are able to discuss philosophy, international politics and more than one sub-field of law with the same competence. So, in general, the book compels the highest respect. Nevertheless, it is not a book for everyone. People who appreciated the new, fresh and perhaps uneven perspective will gain a lot from it, especially if they like its broad range spanning from the ancients to Freud, Hegel and modern European jurisdiction. Readers looking for easy information about individualism or the authority or European Union will not be satisfied, because the book offers neither an overview nor an introduction into these fields. It is definitely not a textbook. There are also some open detail questions: First of all, the main hypothesis "that the meaning of authority is best revealed from the perspective of its model subordinate" (p. 2) seems not to be sufficiently founded (and of course is no legitimate axiom). Second, the question has to be raised, whether introducing the notion of citizenship is really necessary for Somek's point. Third, the section about "market holism" and market liberalism seems to be written from a Libertarian perspective. After billions of Dollars and Euros invested in rescuing the world finance system, can there be any doubt that indeed markets need more regulation than Libertarianism is determined to accept? Fourth, Somek's points do not become clear easily, so for readers not being equipped

with the same broad knowledge of all the matters touched by the author, the book probably shows up as being quite difficult.

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