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National Judges and European Law – A Study of the Experiences, Knowledge and Conceptions of National Judges concerning European Law

The extent to which the courts of the Member States of the European Union fulfill their assigned role as decentralised Community courts varies. While European law expects national courts to apply Community law in the national legal order, there is evidence in the existing literature that this is not always the case. The existing mostly normative studies of the legal obligations of the national judiciary arguably fail to fully identifying the causes for this phenomenon. Little is known about how national judges deal with their role as Community judges. How do they know about European law? Do they routinely apply European rules? What are their experiences with European law? What do they think about applying European rules? Are the rules developed by Community law to make Community law work in a multi level legal order indeed clear and workable in the experiences of national judges? To shed light on these issues a group of researchers from the University of Groningen (M. Hertogh, T. Nowak, M. Wissink,) and from the Erasmus University of Rotterdam (F. Amtenbrink) is conducting a research project on national judges and their relation with European Community law. By using a multidisciplinary approach, which combines legal research with empirical social science, the project aims at identifying factors that may influence the application of Community law by national (Dutch and German) judges. The results of the project will contribute to the debate on the desirability and feasibility of the Europeanisation of law. In addition, the project is relevant to the socio-legal study of legal consciousness in which the social perception of law is investigated by asking citizens and legal professionals about their experiences, knowledge and opinions concerning the law. A study of the experiences of judges with regard to applying European law in national legal practice will, for example, help us to better evaluate what can reasonably be expected of judges in certain situations. First results of this project could be presented at the 2nd Annual Legal Research Network Conference.