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***The Introduction of the Human Rights in the Belgian Legal Periodicals. Is there a Shift in Mentality?***

Periodicals are considered as mirrors or seismographs of cultural and social processes in a society. Legal periodicals are no exception, as they register the day-to-day legal culture and thus reflect its motions over a longer period.<sup>1</sup> The legal periodical as a genre dates back to the end of the 18th century, when specific journals were founded to comment legal cases.<sup>2</sup> Nowadays these reviews are one of the most important instruments for the jurists to keep abreast of the evolutions in national and international law. Surprisingly enough, despite their importance for the knowledge of legal culture, they were not studied scientifically until the 1980's, when Paolo Grossi paved the way with his famous study on legal culture of the juridical periodicals in Italy. Since then, legal journalism has become a hot topic of study in most European countries.<sup>3</sup> With the greater impact of ranking and peer review on research funding, the technological changes it is necessary to know how these organs work and to think about their future.<sup>4</sup> Belgium lags behind in this evolution. Until now, only specific studies of individual titles have been made,<sup>5</sup> next to two general studies about the legal periodicals in sé, by the German Holthöfer<sup>6</sup> and the Belgian Dirk Heirbaut.<sup>7</sup> Still lacking upon today is a general study of the legal periodicals as instruments of legal practice and mirrors of culture.

In this paper, we will analyze the reflection of the topic “human rights” in the Belgian juridical literature. In doing so, we will delimit ourselves in two ways. Firstly, we will only study the impact of the European Convention and the European Court of Human Rights on the Belgian legal system. After all, theoretically, one could go back until the Roman era to search for elements of “human rights”.<sup>8</sup> More likely, one could find traces of the ‘Déclaration des droits de l’homme et du citoyen’, which was the starting point for human rights in national context. Also, contributions about the progressive Belgian constitution could be studied, as this constitution contained a number of human rights, like the freedom of speech. For the period after the Second World War, we can mention the internationalization of human rights, with the birth of the United Nations. In 1948, the General Assembly adopted the Universal Declaration of Human Rights (UDHR) which was the basic text for other human rights conventions, but this Declaration had no direct effect in Belgium, in contrast with the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Convention was adopted in 1950 by the Council of Europe. Three year later it came into force and it foresaw in a European Court of Human Rights at Strasbourg. The European Convention is a so called self executing treaty, which is direct applicable in a national legal system. A Belgian citizen can demand in a national court the fulfillment of the human rights provided by the Convention. If he isn’t heard, he can file a suit against the Belgian government in the Strasbourg court. This direct applicability makes it interesting for the Belgian lawyers and this explains why we have chosen to study its impact upon Belgian legal culture in the past.

Secondly, as it is not possible to study the impact of “human rights” upon all Belgian legal periodicals, we will study only one.<sup>9</sup> We could have chosen the one Belgian periodical specifically dedicated to the matter of human rights, the Tijdschrift voor Mensenrechten, but we decided to focus upon one of the most important general periodicals, the Rechtskundig Weekblad. After all, specific periodicals remain silent about the impact of their topic upon the general legal culture. In contrast, an important general periodical reflects much more the penetration of certain legal topics in the legal world. From this perspective, the Rechtskundig Weekblad is a perfect object of study. Since 1931 until today, it has appeared every week (with exception of the years during the second world war<sup>10</sup>) and it has always reached a considerable number of lawyers. To give an indication: today it has 4300 subscribers, which

makes it the most successful weekly periodical in Flanders (the Dutch speaking North of Belgium).<sup>11</sup>

We will analyze the *Rechtskundig Weekblad* from 1961, when the European Court for human rights has rendered its first decision, until today. Our method will mainly be quantitative. We will investigate how much attention is given to human rights and more precisely the ECHR in the periodical.<sup>12</sup> In doing so, we will not only have attention for the case law of the European Court itself, but also for case law of the national courts and the autonomous doctrinal contributions about the European human rights. For example the *Franco Suisse-Le Ski* ruling (1971)<sup>13</sup> by the Belgian Court of Cassation confirmed that a supranational treaty in which Belgium is a party state has priority over the national federal law, even if that law came later into force.

Two presuppositions can be made. Firstly, as the number of cases before the European Court has been rising throughout its history<sup>14</sup>, this should reflect in a rise of the attention for human rights in the *Rechtskundig weekblad*. Secondly, as some rulings as the *Marckx* ruling (1979)<sup>15</sup> and the *Taxquet* ruling (2010)<sup>16</sup> have had a profound impact upon Belgian legal culture, this should reflect in the studied periodical.