The amazing diversity framework of the IPR harmonisation
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Abstract
The process of globalisation has been considerably boosted by the application of information technology. Global communication and exchange of data have become everyday, almost trivial, phenomena. As a consequence of the globalisation of the modern world, the European Union and other international organisations have paid a lot of attention to harmonisation of legislation. However, these attempts often seem to be concentrated on information technology itself rather than on the social problems that may have arisen from it. In IT law causes and consequences often appear to be blurred. The result of the, often very extensive, legislative initiatives does not fulfil its expectations.

In this paper, a number of EU directives in the field of intellectual property will be discussed. It will be argued, that, for example, the harmonisation of the intellectual rights with respects to “chips”, software and databases, as well as the attempt to create a more general harmonisation of intellectual rights, the “internet directive”, have led to more problems than they have solved. Attempts to produce harmonisation in these fields have lead to “disharmonisation”, while the new social problems arising from globalisation have hardly been influenced. It is often the case that the standard legal interpretation of concepts in one country is different from that in another country, leading to differences in judicial decisions and legislation between countries.

The conclusion is that although new social problems may have been caused by new technology, international harmonisation of legislation should aim at the differences in national, social and legal approaches to these problems rather than at the technological changes that lay behind them. If this would take place, such extensive attempts at harmonisation would most probably not be necessary.

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