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## **PRIVATE LAW AND PUBLIC STAKES IN EUROPEAN INTEGRATION: THE CASE OF PROPERTY**

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The Boston University School of Law Working Paper Series Index:  
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<http://papers.ssrn.com/abstract=605146>

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**Abstract**

In European legal discourse, the old public/private divide is experiencing a revival and a transformation. Member States used to claim autonomy in private law matters. Now private law is subsumed into a functionalist logic and can presumptively be harmonised if so demanded by the goal of market integration. States or local constituencies can only resist harmonisation by highlighting the connection between their private laws and those 'public' matters still immune from Europeanisation. Property law can effectively illustrate this phenomenon. The written pledge of non-interference with States' property systems, restated both in the TEC and in the draft Constitution, cannot be taken at face value, given the plethora of supra-national inroads into this field. But it performs the essential rhetorical function of reassuring national law makers that Europe will pay special attention to sovereign choices when harmonising those areas of private law which, like property, harbour an obvious core of constitutional values.