

BOOK REVIEWS

A. Mayhew, *Recreating Europe: The European Union's Policy towards Central and Eastern Europe*. Cambridge: Cambridge University Press, 1998. xxi + 403 p. (incl. Postscriptum, Bibliography and Index). ISBN 0 521 63897 6. GBP 15.95.

Ten countries from Central and Eastern Europe have now applied for membership of the European Union. In December 1997 the Luxembourg European Council endorsed the European Commission options on enlargement expressed in its Opinions of 15 July 1997. This meant that negotiations for accession could be opened with the Czech Republic, Hungary, Poland, Slovenia and Estonia. But with all the applicant countries – thus also with Romania, Bulgaria, Latvia, Lithuania and Romania – enhanced pre-accession strategies are being worked out, incorporating accession-partnership and increased pre-accession aid.

Not all the readers of this *Review* will necessarily be familiar with this very brief introduction on “Enlargement”. An excellent and efficient way to acquire a profound basic knowledge of this challenging topic is by reading Mayhew’s book on *Recreating Europe*. It provides a wealth of information, data and high level analysis and it may appear astonishing that only very few monographs on the EU’s global policy towards Central and Eastern Europe have so far been published. This field of EU policy does indeed evolve very quickly, and even Mayhew felt obliged to add a “Postscriptum” to his work. But the most evident explanation is, no doubt, the enormous complexity of the topic. Enlargement involves a strange mixture of often closely interrelated political, social, economic and legal issues. Therefore, it is a particularly rare bird who is sufficiently equipped in all these various domains and who dares to tackle the topic in a multidisciplinary approach. This is precisely what the author of this book has done through a combination of academic and wide practical experience in the field.

Mayhew’s book follows a classic pattern. A first part concentrates on the background of the EU policy on Central and Eastern Europe (CEECs). It describes the shift from Soviet domination to integration of the CEECs into the European Union and, almost parallel to this, the gradual growth and development of an EU policy towards Central and Eastern Europe. On this well written and clearly structured chapter perhaps one short remark: it may be true “that the countries of Central Europe freed themselves from Communism through their own efforts and largely without more than moral support of the Member States of the European Community” (p.5) but one has the feeling that the author somehow underestimates the impact of the changes as a result of the new policies of the USSR since Gorbachev came to power. He obviously recognizes – how could he do otherwise? – that the changes in Central and Eastern Europe and the improvement of the relations with the EC “owes much to the policies of *perestroika*, followed by President Gorbachev” (p.9). But no detailed analysis is given on how this policy affected the intra-Comecon relations or the relations with the EC.

The second part of the book examines the association agreements called “Europe Agreements” concluded with the ten applicants. The legal framework of these agreements is discussed, but strong emphasis is put on trade and competition as well as on the financial assistance underpinning the special nature of the association relationship. Particularly interesting and particularly detailed information is provided on this topic. Many of those who have been working in EC projects in Central and Eastern Europe will probably also have experienced the pitfalls

of the European Commission's cumbersome bureaucratic labyrinth and it is therefore rather refreshing to read that aid "should be made available in the simplest and most direct way possible" (p. 156).

The third and last part of this book concentrates on the crucial question of how to make enlargement a reality. Under this heading first the "pre-accession strategies" are examined. It is interesting to see in this respect what a tremendous role the European Councils have played. They have been the political motors of the new EU policy in tandem with the European Commission. Mayhew concentrates heavily on their respective roles and uses their contributions as points of reference to structure his book. A really intriguing question is raised where he observes that the famous fundamental change of the EC view on accession at the European Council of Copenhagen – where accession became a *mutual* objective – was, in fact, hardly prepared beforehand by the Member States "and certainly not disputed in the many hours of discussion and negotiation leading up to the Summit" (p.27). It is somehow regrettable that no further research was done on this point, all the more since the final unanimity of the Member States, as demonstrated through the Conclusions of the Danish Presidency, was far from evident, "given that probably the majority of the countries were not totally in favour of accession, at least in the near term" (p. 27). Was the final outcome of the Copenhagen Summit then the result of a rare joint effort of the Danish Presidency and some committed Commission officials – combined or not with a moment of weakened attention of some Member States – or was it a genuine, conscious, indisputable and simultaneous change of perception of all the Member in this regard?

A number of other "selected topics" are further discussed in this book such as agriculture, structural funds, budget, movement of labour, migration and "third pillar", all of which are issues of crucial importance on the road towards accession. Just one comment on perhaps one of the most sensitive of these issues. Certainly, it was a very pertinent choice to devote a special chapter to the issue of migration and labour mobility. On the whole, the author does not fear a very considerable flow of migration from the applicant countries once accession becomes a reality. Nevertheless, it is also almost certain "that in the accession negotiations, the European Union will demand a long transition period for the free movement of labour" (p. 338). Fortunately, the Spanish and Portuguese examples are there to show that accession may lead to such a stimulus of inward investment and an improved economic climate, and that such fears are not necessary well-founded. Next to this economic motive one could of course also invoke a more human and cultural argument pleading in favour of a liberal standpoint on these matters.

A special chapter is devoted to the various integration models and the costs and benefits of accession. For Mayhew, the global balance is clear: enlargement is a win-win operation (p. 199). That means that the EU will benefit from enlargement as well as the associated countries. According to the author, the benefits are in the first place political and security benefits. Precisely, on this matter the author's analysis, for the reviewer of this book, is not fully convincing as will be explained by way of conclusion of this review. The reflections on the future European architecture are completed by other chapters on the political economy of enlargement and the different accession strategies. All of them are more than worth reading: a neophyte will acquire all the information needed to understand a particularly difficult subject and, for those more familiar with the topic, it will no doubt help to consolidate knowledge and contribute to put more order and discipline in the analysis of the often overwhelming stream of events of the last decade.

As was already observed it is a real achievement for one author to combine in one work the political, economic, social and legal aspects. As far as the last one is concerned, one or two legal inaccuracies can be mentioned (for example: "mixed agreements" must not be ratified by the *European Council*, p. 43) but this by no means detracts from the very great benefit Mayhew's book will necessarily also provide to all those who approach the EU phenomenon from a legal perspective.

A final short comment on the political implications of accession. There seems to be a certain ambiguity in the author's use of the concepts "Central and Eastern Europe", "Central Europe" and "Eastern Europe". Sometimes the ten applicants are qualified as "Central and Eastern Europe" but in general all the applicant associated countries are brought under the heading "Central Europe". Under this latter approach, for example, Estonia is "Central Europe" while Moldova, Belarus and Ukraine are "Eastern Europe". The "recreation" of Europe, as treated in this book, is in fact almost exclusively limited to "Central Europe". Only about 1% of the 400 pages is devoted to those who are excluded from this "recreation-process". It is particularly and unfortunately striking how Russia has no clear place in this analysis. True, it must be said that Mayhew is intelligent enough to know, as he puts it himself, that the policy of the Union with respect to Russia is of great importance for successful enlargement of the Union to Central Europe. But his rather easy assertion that bilateral agreements between Member States and Russia and the Partnership and Co-operation Agreement with Russia together with assistance programmes "are all important for creating an environment in which the Union can enlarge eastwards" (p. 35) is by no means sufficient as an explanation and it is no good simply developing a well-substantiated "Recreating Europe". Almost ignoring Russia (and others) is too much an oversimplification of the issue, which, no doubt, is very much in line with the official EU policy in this respect. Seen in this perspective, Mayhew's view on the matter is somewhat apologetic. But to make out that the "recreation" of Europe ends at the Eastern borders of the applicant countries is not a political vision which most conducive to achieving a secure and stable Europe entering the XXIst century.

Clearly, Eastern enlargement – and the limited but extremely carefully formulated references to Russia in Mayhew's book are perhaps the best proof of this –, particularly if it is to include such immediate neighbours as Estonia with large and discriminated against Russian minorities, must necessarily affect Russia directly. Therefore, considerably more attention in Brussels will have to be devoted to this dimension, when considering the implications of enlargement. This was obviously not the author's intention when he conceived "Recreating Europe", but indirectly and perhaps even unconsciously his work has contributed to the need for further reflection on the external implications of enlargement. Given the seriousness, depth and size of the irreversible process of recreating Europe, as demonstrated in this book, those countries excluded from the process cannot and should not eternally remain unaffected.

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René Smits, *The European Central Bank. Institutional Aspects*. The Hague: Kluwer Law International, 1997. 569 pages. NLG 350. \$ 228. GBP 154. ISBN 90-411-0686-3.

The evolution of the European Central Bank (the "Bank") as a monetary and regulatory authority together with the success or failure of EMU may yet serve as a new paradigm for the direction of European integration. As a distinguished central bank lawyer, René Smits is exceptionally qualified to comment on the evolution of monetary union. In this timely and valuable work he provides a magisterial review of the Bank and EMU (his focus is on the final stage) and their place within the legal framework of the EC. As is set out in the Introduction, he seeks to describe and analyse the objectives and tasks of the Bank and its founding instruments in the context of a Community based on the rule of law and, looking to the membership of monetary union, to examine how the management of "ins" and "outs" can be sustained within the current institutional structure.

At the core of this text is a critical examination of the institutional structure of the Bank and the legal framework of monetary union. The foundations on which the analysis is built are the

EC Treaty provisions on EMU and the Statute of the European System of Central Banks (the "ESCB") and of the European Central Bank, together with the relevant *acquis communautaire*. The author is a sure-footed guide through these detailed and at times daunting instruments and raises several problems as to interpretation and consistency in these founding instruments, such as, for example, the lack of a systematic approach to the sanctioning powers granted to the Bank.

The work is divided into four parts. In Part One the author introduces the legal structure of monetary union with an illuminating history of the road to EMU (pointing out that the global monetary order as originally established at Bretton Woods in 1944 largely obviated the need for any coverage of monetary affairs in the Treaty of Rome negotiations) and a general discussion of the EMU provisions as set out in the EC Treaty. In Part Two the author turns his attention to the internal aspects of the Bank and we find three detailed chapters on: the objectives and tasks of the Bank; the role of the Bank with respect to monetary policy, the oversight of payment systems and related instruments; and the Bank's role in banking supervision. The first chapter of Part Three, which deals with the external aspects of the Bank, examines the external policies of EMU and, highlighting the wider ramifications of EMU, includes a fascinating discussion on the likely relationship between the Bank and the IMF. In an intriguing analysis, the author raises the possibility of Bank membership of the IMF and flags the implications any consequent redistribution of quotas and voting power may have for the Fund. Part Three also contains a chapter on exchange rate arrangements within the Community. Finally, in Part Four the author examines problems of interpretation which have arisen with respect to the functions of the Bank and monetary union, whether the Bank is or can be democratic and transparent, and structural issues such as the problems raised by a two-speed monetary union, the operation of an Exchange Rate Mechanism and the accession of new Member States. His final recommendations are thought-provoking and raise the possibility of a complete restructuring of European integration to accommodate the different structures and competences required by the "ins" and "outs", which he argues cannot co-exist effectively within the current form of European co-operation.

Despite the occasionally arcane material under discussion, this text, while always exhaustive, never descends into a recitation of minutiae. The whole is given great coherence by the critical and contextual analysis. The serious institutional and legal difficulties raised by the monetary split of the Community, for example, are compellingly highlighted by the author. The problems faced by the Eurofin Council are self-evident, but, in a provocative argument, the author argues that the consequences of the split are fundamental and may concern the very nature of Community law itself. He asks whether, given that certain key elements of Community law such as the regulation of the euro cannot apply outside the currency union, the very concept of direct effect itself may be undermined. This critical approach extends to the controversial issue of the Bank's independence. In chapter three, in assessing whether the Bank's independence is compatible with a Community based on democratic principles, he finds that the accountability provisions are adequate although he does advise that the Bank should actively foster public debate on monetary policy and thereby achieve "accountable independence". To borrow Smits' phrase, central bankers follow election returns; informed public debate and opinion may yet be the greatest brake on the Bank.

The author has, of course, been required to grapple with a moving target. The nature of the role which the Bank may yet adopt in the area of prudential financial regulation, for example, is an enthralling question for the financial lawyer. With the main planks of the legal framework for the internal market in financial services now in place (one of the more recent measures being the Investor Compensation Schemes Directive adopted in March 1997), the tantalizing possibility of the Bank as super-regulator, in the mould of the US Securities and Exchange Commission or the new UK Financial Services Authority, arises. Clearly, the Bank is primarily a monetary authority and, indeed, the current structure leaves prudential supervision to Member State authorities, with the ESCB having only a limited coordinating

function within the legal framework of monetary union. After fierce debate (Smits presents the legislative history of prudential supervision in detail), the Maastricht negotiations saw the role played by the ESCB substantially watered down to, essentially, contributing to the smooth conduct of supervisory policies, although Smits presents a compelling argument for a wide reading of the powers granted to the ESCB. Under Article 105(6) EC, however, the Ecofin Council may, on a unanimous vote, grant certain direct supervisory powers to the Bank although, as Smits acknowledges, these powers are regrettably restricted to certain types of financial institutions; this is a formula which may restrict the role played in the future by the Bank with respect to multi-functional financial conglomerates. While we await developments, Smits has fully canvassed the range of arguments concerning a grant of supervisory powers to a monetary authority and presents an elegant argument for an institutional combination of monetary and supervisory functions. He broadly welcomes the role currently played by the ESCB in prudential supervision but he raises some very interesting issues, such as the byzantine difficulties raised for effective supervision by the monetary split of the Community. As he points out, this division will make itself most apparent in prudential regulation which is of singular importance for the stability of the entire single market for financial services and not simply for that of the monetary union.

The text is very clearly laid out, with a liberal use of sub-headings throughout making material easy to locate. This feature and the extensive footnotes and formidable bibliography make this an excellent research resource. While this work is essential reading for specialists in EC financial regulation and monetary union, by providing an exhaustive and critical exposition of the Bank within the context of wider inter-institutional relations and the *acquis communautaire*, it is also a valuable addition to the library of general EC lawyers.

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Miguel Poiarés Maduro, *We the Court: The European Court of Justice & the European Economic Constitution*. Oxford: Hart Publishing, 1998. 175 pages. GBP 22.50.

The author and publishers of this book have scarcely done themselves a favour with their idiosyncratic choice of title ("We the Court"), which gives the prospective reader no indication whatsoever of its subject-matter. While the sub-title is somewhat more helpful, only the sub-sub-title ("A critical reading of Article 30 EC of the EC Treaty") is really informative.

At all events, this work, which is based on a PhD. thesis from the European University Institute in Florence, is a very sound theoretical study of Article 30. The author has chosen the Court's case law on this provision as a good illustration of its role in the process of European integration. As he points out, the vagueness of the concept of measures of equivalent effect has left the Court considerable room for manoeuvre and this, together with the central role of Article 30 in the integration process, makes that provision a particularly suitable subject for such a study.

The author focuses essentially on two closely connected questions, namely: the degree of integration which the Court has sought to achieve; and whether it has aimed simply to remove protectionist measures or to create a Community based on a neo-liberal economic model. As one might expect, his quest takes him through an examination of such epoch-making judgments as *Cassis de Dijon* and *Keck*, as well as the various theories canvassed by legal authors over the years as to the proper scope of Article 30. A discussion of Community harmonization is also included, as well as a comparison with developments in the case law regarding the free movement of persons and the free provision of services (where the author notes the recent convergence with the case law on Article 30). Some attention is also devoted to the dormant

commerce clause in the US Constitution; here he considers the reasons why in many respects the Court of Justice has gone further than the Supreme Court. He concludes with an examination of the proposition, which is by now beyond dispute, that Article 30 provides for a fundamental right. He regards this fundamental right as being not (or not merely) of an economic nature, but as being a political right. Yet what consequences flow from this assertion is not clear to this reviewer.

All this material is handled with considerable dexterity and attention to detail. However, two glaring omissions cannot be overlooked.

Firstly, it is a pity that Article 34, which is after all the necessary corollary to Article 30, has not been covered. As the reader will be aware, in *Groenveld* and *Oebel* the Court has adopted a very different approach to Article 34, limiting the scope of that provision to measures specifically intended to restrict exports or which have the specific effect of discriminating against goods intended for export as against those intended for the home market of the State concerned. This is surely a crucial element in any discussion about the issues on which the book concentrates.

Secondly – and this is also especially important in the debate about neo-liberalism – one will search through this book in vain for a full discussion of the case law on State monopolies. Surely, the Court's case law in this field (which straddles Article 30 and Article 37) ought to be considered by anyone anxious to discover whether the Court is seeking to create a neo-liberal Community. Admittedly, the recent judgments on the gas and electricity monopolies probably came too late to be included in this book, but the earlier judgments also provide considerable food for thought.

In summary, this is a valuable theoretical work on the Court's case law on Article 30, but one can only regret that its focus is not a little wider.

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B. Bercusson, S. Deakin, P. Koistinen, Y. Kravaritou, U. Mückenberger, A. Supiot, B. Veneziani, *A Manifesto for Social Europe*. Brussels: ETUI (European Trade Union Institute), 1996. 171 pages.

Gilles Sintès, *La politique sociale de l'Union Européenne* Collection Travail Société No. 16, Brussels: Presses Interuniversitaires Européennes, 1996. 394 pages. 950 BF.

Both books under review start from the assumption, if not creed, that European integration necessarily includes a certain consensus on social matters. Consequently, they plead for a meaningful social policy which is not merely a side aspect of economic integration, but - quite the other way round - its foundation. Their theme is the interdependence of social and economic integration the recognition of which should replace "the opposition of the economic and the social, the trompe-l'oeil of contemporary thought" (Supiot, *Manifesto* p. 81). Sintès, in this context, draws attention to the spiritual sources of the Union (fostering peace, democracy, the union of people – rather than only that of States –, and economic and social progress) which show that the economic is only a means in order to achieve higher objectives. The difference between the two books is first of all one of volume: Sintès' book is a detailed and comprehensive treatise of the development of European social law, while the *Manifesto* is a shorter and less detailed pleading for social law. There also seems to be a difference in approach to the issue of "the social" in the EU: the *Manifesto* starts from what the authors call "Europe's impasse and present malaise" (p. 9: "The EU is paralysed by nationalism, monetarist economism, and the protectionist self-interest of Member States. The free market principle has gained ground. It

has shifted the balance from public responsibility and solidarity towards privatization of risks and burdens. Current policies, driven by neo-classical economic and monetary integration, are far from solving the urgent problems of mass unemployment, poverty and social exclusion.”). It is against this background that the *Manifesto* proposes “a European Social Union” based on a social constitution. Sintes, on the other hand, analyses the development of social policy in the EC/EU, describing it as a positive one and using that assessment as a basis for putting forward a case for “a European Social Area”.

Sintes carefully examines and analyses the development of social law within the EC/EU framework. The first five of the book’s ten chapters are on the emergence of a new common social policy (119 pages). Chapters one to three discuss the developments of the relevant Community law (the social dimension of EC law before and after the European Single Act, and important developments in the Community of the fifteen, which includes two new Scandinavian States). Chapters four and five examine the relationship between European Social law in a broader sense and Community social law (the European Council’s Social Charter, the Schengen Treaty, the EEA Treaty and the social law of EFTA Member States). The second main part of the book (251 pages) proposes and discusses a new dimension of Community social policy. Here, Chapters six and seven describe the present legal framework for such a policy (the development of the role of the institutions, procedures and principles relevant in the social law context). Chapters eight to ten affirm the new social policy as expressed in the development (even if it is slow) of EC social law towards a triple social policy, namely towards a structural social policy (“a policy of solidarity”), a social policy depending on the concept of free movement and a social policy independent of that specific context. Sintes shows that for a long time, the EC/EU’s social law was nothing more than a mere (and limited) catalogue of social rights which were closely linked to economic rights. However, in the course of time, the relationship between the economic and the social aspects of the Common Market has changed. Social rights are no longer necessarily connected to economic rights, such as the right to free movement of workers. Rather, there is now a certain autonomy of social policy from economic policy and a *rapprochement* with the concept of citizenship. The Treaty of Maastricht is founded on a triple rights approach: on the basis of that Treaty, people have economic rights, civic rights and social rights. In the form of the Social Protocol and the Social Agreement, attached to the Maastricht Treaty, there is now a legal basis for a genuine Community social policy (though leaving out Great Britain, a shortcoming that should be remedied). It should lead to a new dimension of Community social policy – *un espace social européen organisé*. The evolution of the role of the institutions and procedures – especially the abolition of the unanimity requirement in the Council’s voting in the Social field – allows for the development of such an organized policy and beyond that of an approach which is no longer merely legislative, but also including the social partners. In the book’s conclusion, Sintes goes beyond the mere legal discussion, and addresses some political aspects of social policy. He proposes that the relationship between the economic and the social be complemented by a relationship between the social and citizenship. Europe as an area which is not only economic but also cultural and social, requires a common identity, that is a citizenship which is more than the sum of the nationalities of the Member States. EU social policy needs to be seen as part of the development of European citizenship, which Sintes sees as the great project of civilization at the end of the 20th century.

The *Manifesto for social Europe* was written explicitly as a means for discussion at the IGC which the authors saw as a historic opportunity to restore the legitimacy of the European project. As a means to achieve that goal, they suggested a new democratic, political and social constitution of the Union, including a Social Europe based on the idea of a European “*bonum commune*”. The authors saw it as part of their responsibility and commitment as social scientists to present the *Manifesto* as a coherent and elaborated proposal for a “Social Europe”. The *Manifesto* (published in English, Finnish, French, German and Greek, i.e. the languages of the authors) consists of the text of the *Manifesto* itself, the issues of which are then elaborated in more detail in ten chapters written individually by the various authors of the *Manifesto*. The

opening chapter on the European Social Union's agenda is followed by four chapters on the basic rationales for Social Europe (the need for social convergence criteria analogous to the EMU convergence criteria; social regulation and transnational standards as prerequisites of functioning markets; a conception of subsidiarity to further European intervention in the social field; the link of social regulation to the person). This is followed by chapters on the main areas of social intervention (social citizenship; citizenship and gender; new types of employment; a politically constituted European public sphere). The tenth and last chapter outlines the strategy for Social Europe proposed by the authors. Basically, the authors suggest a redefinition of the EU by introducing a dynamic European social constitution. They propose, among other things, social convergence criteria and mechanisms to ensure their implementation, a definition of subsidiarity that reflects its link to solidarity (subsidiarity as a duty of a higher level to actively intervene to support the lower level where policy objectives are not sufficiently achieved; to produce a dynamic to secure that the allocation of competences does not lead to stalemate as the function of subsidiarity) and universal rights not coupled to work and protecting any person (including third country nationals) against social exclusion. Probably the most important notion put forward in the *Manifesto* is social citizenship, seen as a cornerstone of European integration. It is a multifold notion embracing not only civil rights but also social rights, including the obligation of solidarity with aliens and workers in other countries. Further, these rights are not only for Member State nationals. Recalling that labour cannot be reduced to a mere exchange of commodities, the authors propose the development of policies concerning the relationship between human beings and work (which should include care work and voluntary work in the collective interest). There should be a legally guaranteed status and a floor of rights for all workers. Key elements would be rights of democratic participation at the workplace, working time options, social protection and reintegration of those performing unpaid socially desirably activities. The *Manifesto* identifies at least five trends in economic change not only consistent with but, indeed, predicated on a move towards such a concept of worker citizenship (integration of new production processes, controlled autonomy, greater need of the individual for personal development, life-long learning, winners and losers). An important part of social citizenship is a constructive gender policy. The authors draw the attention to the gender hierarchy in society, encouraged and even constituted by the law, which finds its expression notably in a gender-biased labour regime. A better approach would be based on the ideas of equality and solidarity between the sexes and citizenship. New gender policies need to include positive action and tackle the gendered division of labour (notably integrating men more into the domestic sphere, parental leave, a working time regime allowing for family and caring work). In that context, the authors propose that the Nordic model be the basis for European policy and legislation.

Both books contain a number of interesting practical suggestions: in Sintès' book, for instance, the creation of a social security regime specific for migrant workers. Such a regime would complement the national systems then still valid within a Member State for its own citizens and – presumably – third country nationals (p. 266). Another suggestion is the "European Social Serpent" proposed by Dispersin and taken up by Sintès. Within such a system, the level of social protection of each Member State would be assessed and measured against the average level of EC legislation. Member States below that average level would be obliged to at least maintain that level. In the case of substantial shortcomings, there would follow a consultation procedure perhaps followed by compensatory intervention measures by the EC. The same could happen in the case of Member States with a level of protection much higher than the Community average (p. 267). In Sintès' view, such measures would limit the danger of social dumping. The *Manifesto's* concrete proposal was the following: "This Manifesto proposes that the Intergovernmental Conference adopt a European Social Constitution based on existing instruments already approved by all the Member States (except the United Kingdom): the 1989 Charter of Fundamental Social Rights of Workers (programmatic fundamental rights), and the 1992 Protocol/Agreement on Social Policy or the Treaty on European Union

(an implementation mechanism). By integrating these two instruments into the Treaty, the European Union would be committed to a pro-active, dynamic mechanism for the creation of Social Europe.” (p. 21, and pp. 147 et seq.)

Now that the ICG is over, in how far does its result, the Amsterdam Treaty, reflect such proposals? Will the future European Union have a true Social constitution or will it be a Social Union or a Social Area? Well, not quite, though certain progress can be seen. For one, the Treaty does not provide for a legal basis for membership of the EC to the European Convention on Human Rights (declared to be lacking by the ECJ in its Opinion 2/94). But the new Article F(1) states that the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms. Article F(2) refers explicitly to the Convention. New and important, the Article F.1 provides for a special enforcement procedure against Member States failing to respect the principles mentioned. What about the changes in the former “social chapter”? In the Amsterdam Treaty, the chapter will look rather different, mainly due to the integration of the Social Agreement into the Treaty. However, the only true substantive amendment is the new provision on positive action in the context of sex equality in Article 119(4), also a consequence of the disappointment about the ECJ’s *Kalanke* decision (in the meantime mitigated by the *Marschall* judgment of 11 November 1997). What really changes – in quite a complicated way – is the situation regarding the legal basis for secondary legislation in the area of social law. Apart from the provisions in the social chapter there will be the important new Article 6a on secondary legislation banning discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. However, all that legislation has to be made first, which will certainly take a few years. In any case, the aims outlined by the two books require a lot more than that.

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David J. Gerber, *Law and competition in Twentieth Century Europe: Protecting Prometheus*. Oxford: Clarendon Press, 1998. 436 pages + bibliography, index. ISBN 0-19-826285-X. GBP 55.

In Europe, competition law has now achieved practical importance far greater than anywhere else, except the United States. In spite of this, and in spite of the huge volume of published material on Community competition law, there is almost nothing published on the history and development of competition law in Europe. It is this important and interesting topic which this book sets out to deal with. It does so very well.

The book consists of an introduction, a chapter on nineteenth century thinking, two chapters on Austria and Germany before the First World War, a chapter on the inter-war period in Germany, Sweden and Norway, a chapter on the post-war decades outside Germany, in England, France and Spain, two chapters on ordoliberalism (which meant much the same as social market economy thinking and which the author describes as a new intellectual framework for competition law), and especially the Freiburg school, then finally three chapters on competition law and European integration. Gerber has used the German literature very extensively: of some 850 references in the bibliography, about half are in German or primarily about Germany. He also uses the Swedish, French and American literature thoroughly. Throughout the subject is competition law for companies (restrictive agreements, mergers, abuse of market power): state subsidies and state measures restricting competition, such as those dealt with by Article 90 EC, are not discussed in detail (but see pp. 382–384).

Most English-speaking readers will find the first chapters unfamiliar, and fascinating. They show clearly that competition law in the European Community Treaties in 1951 and 1957 was not something imported from the USA, but was a European policy with a rich, complex

and important intellectual history. German thinking dominated the first years of Community competition policy not because West Germany had adopted a cartel law in 1957, after some eight years of discussion, but because there was a long tradition of competition law in Germany. Otto Schlecht said that without the debate over the German law there probably would not have been competition Articles in the EC Treaty. In the inter-war period, ideas developed before 1914 had spread and established themselves in Germany and, to a lesser extent, in Sweden and Norway.

The German cartel law of 1923, introduced by Gustav Stresemann, the first general competition legislation in Europe, was based largely on pre-war thinking on administrative control of cartels. It contained a general power to take action against conduct of cartels which harmed the public interest, and so it was similar to the competition laws adopted in a number of European countries after the Second World War (the abuse principle). It also gave rise to what Gerber calls an informal dimension, in which authority given by the 1923 measure was used to obtain compromises and modifications in agreements and behaviour without formal proceedings. This arose because "the cartel office was very small and had few resources. As a result it was not in a position to achieve effective enforcement through formal, confrontational methods". In other words, it was under-staffed and under-financed, just as the European Commission is today.

After World War II, a number of countries adopted laws based on administrative control and the abuse principle (Austria, Belgium, Denmark, Finland, France, the Netherlands, Norway, Sweden, and the UK). However, they also provided inadequate resources for enforcement, and insufficient political and intellectual support. The new impetus for more effective national competition law after the war arose in Germany.

Here the comparative method is invaluable. Gerber rightly says that the failure to look at national competition laws from a Europe-wide perspective has obscured the similarities between many of them, and the distinctiveness of German thinking.

It was the European Community which caused competition law to reach the importance which it has today. Community law embodied a general prohibition of restrictive agreements (as distinct from the abuse principle), and Gerber says this was probably due largely to German ordoliberals, who saw competition policy as law, not guidelines for administrative decisions. But because it was assumed that Community law would be applied only to the largest firms, procedures which were far too cumbersome for frequent or prompt use were established: once it became clear how many vertical agreements the Court of Justice believed had effects on trade between Member States, centralized enforcement became a weakness and not a strength in the effectiveness of Community competition law.

The author rightly devotes two whole chapters to the history of Community competition law and the changing relationship between Community and national competition law. Indeed, he underestimates its importance, since he does not mention the Commission's efforts (when Peter Sutherland was Commissioner for competition) to introduce a Community measure clarifying plaintiffs' rights to compensation and injunctions in national courts. Nor does he mention the plan, initiated at the same time, to have a book written about the case law of national courts on Community competition law: this was finally published as the *Union Internationale des Avocats* report, edited by A. Braakman (*The application of Articles 85 and 86 of the EC Treaty by National Courts in Member States*). But he rightly stresses the importance of the fact that more and more Member States have now adopted national laws very similar in substance to Community competition law. If one takes the new UK legislation into account, no less than twelve Member States have done this (but because EC law is regarded as a sound modern competition law, not as Gerber says to demonstrate support for the 1992 programme). Although Italy is one of the States discussed in this context, he underestimates the great success of the Italian Authority under Giuliano Amato, and the considerable if perhaps less dramatic successes of other national authorities. The fact that so many national competition laws are intended to be very similar to Community law means that it now matters less than it did which

law is being applied and by whom. It should also mean that legal and economic scholars should give as much serious attention to Community law in future as German scholars have given to German competition law. Political support for competition law will also increase when it is seen as a body of law shaped by EU Member States for sound economic reasons (and not merely because of the advantages of copying EU law without regard to its merits).

Has this interesting and important book any other small weaknesses? Most of the comments are clear and sound, and nothing important is omitted. The perspective is broad, but there is plenty of detail. Some of the specific opinions expressed on Community law are open to question, e.g. the views that the Court's own limits on the extent of judicial review of economic assessments is inconsistent with its intellectual leadership (p. 374), that new Member States see competition law in political terms (p. 376), that "the centrality of administrative decision-making means that most decisions are policy decisions" (p. 386), and that the competition law system is becoming *less* judicial (pp. 390, 391). More authoritative sources exist and should have been cited for some of the views expressed. Some of the views expressed about the Commission's thinking certainly do not correspond to an insider's perspective. More discussions with Commission officials would have strengthened the chapters on Community law, though they would not have altered the author's basic proposition, which is that competition law was a genuinely European growth, a thesis the truth of which is not widely realized. The serious weaknesses of pre-1998 UK competition law are not fully brought out.

A four-page index is not enough for a text of 436 pages, which is full of information, both legal and historical. I noticed only three small printing errors (two in the names of EU lawyers). The thirty-one page bibliography is most useful.

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Andreas R. Ziegler, *Trade and Environmental Law in the European Community*. Oxford: Clarendon Press, 1996. 308 pages.

Damien Geradin, *Trade and the Environment – A comparative Study of EC and US Law*. Cambridge: University Press, 1997. 231 pages. GBP 40.

The issue of trade and environment is nowadays at the core of the debate in both International and European Environmental law. The conflict between the liberal approach to free trade in goods and services and the ecological attempt to guarantee a sustainable development is the subject of much controversy in the framework of the World Trade Organization and the European Community. In this context, the books by Ziegler and Geradin represent an important contribution to the present discussion and an attempt to find viable solutions, although their scope is quite different. Ziegler gives a comprehensive overview of the rules and legal mechanisms concerning trade and environment at the EC level, also seen in relation with domestic and, in a more limited way, international environmental law. On the other side, Geradin focuses on EC free trade and state regulatory environmental policies, excluding the issues of taxes and subsidies, but adopting a comparative approach with the federal system of the United States.

Ziegler, in the first part of his work, provides a complete description of the EC legal mechanisms aiming at guaranteeing free trade and undistorted competition. From the abolition of custom duties and quantitative restrictions to discriminatory taxation and fair competition in both private and public sectors, all the relevant provisions of the EC treaty are dealt with. Particularly interesting is the analysis of the role played by environmental justifications for national restrictions to free trade under Article 36 EC and the Rule of Reason. It is however regrettable that, probably because of some redundancies at the beginning and at the end of his

study, the author does not have room to develop further his analysis of Articles 85 and 92 EC. Indeed, the areas of competition law and state aids and their relation with environmental law have not yet been the object of many studies by legal scholars.

In the second part of his work, Ziegler tries to strike the balance between legitimate environmental protection at the Member State level and the establishment of a common market at the EC level. After a brief description of the origins of European environmental policy, the harmonization procedures which are relevant for the environmental field are tackled, together with the safeguard and derogation clauses provided for by the EC Treaty. The relationship between Environmental policy and Common agricultural and Transport policies is also looked into, as well as the use of economic instruments for the protection of the environment. Finally, a brief chapter is dedicated to the external competence of the European Community in the environmental field, with a special focus on Multilateral Environmental Agreements (MEAs) and Trade Related Environmental Measures (TREMAs).

Ziegler's book is particularly useful because it is one of the few to undertake the titanic task of giving a complete overview of the trade and environment debate at the Community level, with all the interlinkages between the national and international legal orders. Moreover, the analysis provided by the author is an interesting contribution to debate on some issues. The book is rich with examples from the case law of the Court of Justice up to 1995 and with references to updated doctrine, predominantly German.

As regards Geradin's study, the declared objective of the author is "to evaluate in a comparative manner how the competing Community or federal interest in free trade and the states' interest in preserving their domestic environmental policies can be reconciled in Community and United States Law". Geradin, in the first part of his work, analyses the role played by the judiciary in establishing the principle of free trade in both the EC and US legal orders.

Articles 30 and 36 EC, together with the Rule of Reason and the "Commerce Clause" in the American Constitution, are looked into deeply in their practical application to the three main areas of waste, product standard and process standard. The comparative study of the case law of the ECJ and the US Supreme Court allows the author to stress the beneficial effect but also the limits of negative harmonization, i.e. the power for the judiciary to review State environmental measures hindering free trade. The sometimes different findings of the two courts on similar matters offer a range of interesting legal devices to deal with the tensions that may arise between trade and environmental protection. In some circumstances such tensions can only be resolved through the positive harmonization of rules. The latter is the object of the second part of Geradin's book.

There, the author, very consistently, keeps the same structure as in the first part of his work. After having discussed the principles of attributed powers, subsidiarity and proportionality in the EC system, together with the problem of the appropriate legal basis for Community action in the environmental area, he deals with the issue of harmonization in the fields of waste, product and process standard. A parallel survey of US environmental legislation is also carried out.

The comparison of these two sets of legislation and the findings of the first part of the book show that "[t]here is no one conflict between trade and environmental protection but several ... depending on which area of environmental regulation is involved" and the usefulness of judicial and legislative intervention to solve these conflicts varies depending on the sector of environmental law to which they apply. This well-written and engaging study gives an innovative contribution to the trade and environment debate. Geradin's book can be recommended both to readers who already possess an expertise in the *mare magno* of Trade and Environmental law and to non-experts for whom it will be of great help in increasing their understanding in this field.

Nicola Notaro
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John H. Jackson and Alan O. Sykes (Eds.), *Implementing the Uruguay Round*. Oxford: Clarendon Press, 1997. 481 pages. GBP 75.

Implementing the Uruguay Round is the admirable result of an aspiring project to compare constitutional processes at domestic level which facilitate or impede the negotiation and implementation of international accords, with a special focus on the Uruguay Round agreements. Eleven enticing chapters, written by experts in the field and initially presented as papers at a conference organized by Meinhard Hilf and sponsored by the Centre for Interdisciplinary Research at the University of Bielefeld in Germany, deal with these constitutional processes in, respectively, the European Community (Van den Bossche), Belgium (Eeckhout), Germany (Hilf), Japan (Iwasawa), the United States (Leebron), Canada (Steger), Australia (Waincymer), Switzerland (Cottier and Nadakavukaren Schefer), Korea (Moon-Soo Chung), Costa Rica (Echandi) and Brazil (Borba Casella). The country reports are preceded by an introductory chapter, in which Jackson and Sykes explain the nature of the project, and a concluding chapter in which they discuss some of the issues tackled in the individual essays. Each author was asked by the editors to consider three sets of issues: (i) the constitutional and statutory structure of negotiation by national representatives (e.g. the competence of the European Community to negotiate on behalf of Member States); (ii) the application of the WTO agreements in domestic law (e.g. the ability of interested parties to invoke international law on their behalf; or the consequences for implementation of the WTO agreements of domestic concerns about sovereignty); and (iii) the interface between domestic law and the WTO dispute settlement process (e.g. the status of WTO panel reports in national law).

The stated objective of the project was to gain a better understanding of the effect of different governmental structures and rules regarding the domestic effect of international law on the ability of nations to negotiate and implement international obligations. The editors have undoubtedly attained this goal. The essays raise all the relevant issues in a very stimulating manner and are certainly worthy of the attention of a broad audience. Unfortunately, it is not possible here to consider fully all of the interesting questions dealt with in the separate essays. I will hopefully be forgiven for focusing here on just one of the issues of the second set, namely the sovereignty issue.

In their concluding chapter, Jackson and Sykes explain how frustrated national interest groups often invoke sovereignty to defend themselves against international obligations of their government, like those assumed under WTO law, that appear to interfere with their own objectives. The editors argue that any criticism of the WTO, stating that WTO law encroaches too much upon national sovereignty, misses the mark because such criticism does not take account of the reciprocal nature of international commitments. In that respect, they say, an international agreement does not differ that much from an ordinary private contract. When a private person enters into a contract with another person he must keep the promises laid down in that contract. When a party decides not to keep those promises then the other party has in turn the right to refuse performance and, in principle, a right to damages. An independent judge decides who is right and who is wrong and when damages are to be awarded he determines the amount. Does the mere threat of damages at the level of private persons who enter into contracts constitute an encroachment upon their privacy? Of course not. The reason that individuals enter into contracts with one another is because they assume they will gain from this; it is simply a matter of self-interest. If you decide to breach the contract which you have entered into and, subsequently, you claim that by threatening with damages the other party encroaches upon your privacy you will seem ridiculous. It is the same with international agreements.

Indeed, if you enter into a commitment as a country because you know that it is beneficial to the country as a whole, you simply cannot afford to get lured into acting in contravention of those promises by parochial interests. By doing that, you not only seem ridiculous yourself but you also damage the legitimate interests of your citizens. For each two jobs you save by imposing a trade barrier in one industry sector, you sacrifice three in another sector. This is simply unacceptable. Every current WTO Member has made, in the words of Borba Casella

(in his essay on Brazil), its own strategic cost/benefit analysis of prerogatives relinquished and advantages obtained, and has apparently concluded that WTO membership pays off. It should now play by the rules.

One could take this line of reasoning one step further. Infringement of WTO law by a country constitutes an immediate discrimination of its own citizens and constitutional guarantees should exist to prevent that. Viewed from this perspective, accusations that the WTO invades sovereignty are, arguably even more clearly, misplaced. Ultimately, the crucial point is in what way the rights of the citizen, particularly the financially weaker in society, can best be protected. In that regard, the WTO agreements intrude on sovereignty just like, for instance, the European Convention on Human Rights does; they constitute a set of horizontal provisions which protect the fundamental rights of the citizen against undue interference by the State.

If American meat producers are able to supply us with meat treated with hormones that, according to all existing scientific tests, does not constitute a health hazard, should we not let the consumer decide whether he or she wants to buy that meat? If it happens to be cheaper, should we allow the European Community to prevent a consumer for whom meat is a substantial expense from buying that meat? Is it not extremely important to recognize that some consumers do need the difference in price to be able to send their children to school or to buy clothes? Personally, I would go even further. Even if it were to be established that meat treated with hormones might not be good for your health in the long-term, like perhaps tobacco, we should still allow the consumer to make his own choice. Individual liberty can only find its limitation in proven adverse external effects on others. (I do not think smoking a cigarette affects others in a meaningful negative way when normal rules of politeness are observed, either, so bans on advertising cigarettes are therefore, in my view, unwarranted.)

As Leebon observes (in his essay on the US), one aspect of sovereignty is autonomy, by which is meant the autonomy of countries to take their own decisions. At the individual level, this autonomy is a person's private sphere – which entails the freedom to enter into contracts as Jackson and Sykes explained (see above) – or, you could say, it translates into a consumer's freedom of choice. Free trade is really all about free choice and 99% of consumers are well capable of making choices alone. Paternal governmental interference with that freedom of choice is not merely an infringement of fundamental rights, but also an insult to our intelligence.

Nobel prize-winner James Buchanan has argued that a straightforward application of Rawls' "equality principle" (each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all) and "difference principle" (social and economic inequalities are to be arranged so that they are to the greatest benefit of the least advantaged in society) presupposes important restrictions on the possibility of governmental interference with the freedom of individuals to make their own economic decisions. For Rawls an effectively operating market economy is a basic institution in every just society. An open and free private market economy implies a free trade regime; geographical borders are artificial and only thwart economic efficiency and retard economic growth. If some, or even a substantial part of, economic sovereignty has to be relinquished in order to create a more just society, then that seems a small price to pay for a very important good. It is what we did in Europe, and rightly so. Ultimately, sovereignty emanates from the people and the people alone. If some of it has to be given up to create a more just society, then so be it.

In his excellent contribution to another invaluable recent project, undertaken by Slaughter, Stone Sweet and Weiler – and in structure (and partly in substance) quite similar to the one under review – Bruno de Witte poses the following questions: (i) is it perhaps the case that the legal notion that national sovereignty ultimately emanates from the people of a nation-state might be a concept which has become too far removed from the political reality of Western Europe to be preserved? (ii) could it be that this sovereignty rests with the peoples of the European Union taken together rather than with each of those peoples separately? He refers to the Russian constitution of 1993 to show that it can indeed make constitutional sense to attribute sovereignty to a *multinational people*. I do believe that in further advanced stages

of European economic integration it will be recognized that fusion with the process of global economic integration has taken place and that this *multinational people* is not just composed of Europeans. For the time being, let us concentrate on faithful implementation of this sensible set of legal rules called WTO law and not on, in the words of Jackson and Sykes, the rather “silly” issue of alleged intrusions on sovereignty.

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Gavin Barrett (Ed.), *Justice cooperation in the European Union*, Dublin: Institute of European Affairs (Europe House, 8 North Great George’s Street, Dublin 1, Ireland, tel: 353-1.874.6756), 1997. 237 pages. ISBN 1-874109-33-8. 15 Irish pounds.

Justice cooperation is a wide and varied field of interest. It covers subjects varying from visa policy to combat of terrorism. In Europe, justice cooperation has traditionally been the subject of bilateral cooperation as well as multilateral cooperation in the framework of the Council of Europe, the European Community, Schengen, and, since the entry into force of the Maastricht Treaty on 1 November 1993, the European Union. Here, in particular, the Third Pillar is of importance, dedicated to cooperation in the field of justice and home affairs, to be developed through the intervention of the EC institutions but according to intergovernmentally orientated working methods.

The future of the Third Pillar became one of the most important subjects of the Intergovernmental Conference of 1996, concluded by the signature of the Treaty of Amsterdam on 2 October 1997. More particularly the deficiencies of the Third Pillar cooperation – such as the unanimity rule within Council, the absence of an adequate role for the Commission, and the lack of sufficient parliamentary and judicial control at the European level – were the subject of discussion. After all the Amsterdam Treaty introduces major reforms in the area of justice cooperation in Europe. Asylum policy, visa policy, immigration policy and civil law cooperation have been brought into the Community sphere. Furthermore, the Schengen cooperation has been integrated in the *acquis* of the European Union, and the Third Pillar itself has been thoroughly reformed.

Although of utmost importance, there exists hardly any overall literature concerning the history and developments in this crucial area of human society. Justice cooperation in the European Union, published by the Institute of European Affairs (IEA) in Dublin, fills this gap now to an important extent. It explains the history, current events and perspectives for further development regarding the subjects mentioned in K.1 TEU.

Barrett, the editor of the book, is head of the First Pillar Project of the IEA. He wrote the general introduction, a fine contribution offering a complete overview of the past and the present of justice cooperation in Europe. Barrett also discusses, as a critique of the operation of Title VI, efficiency and effectiveness as well as the level of openness and democratic and judicial control of the Third Pillar cooperation. In so doing, Barrett points at factors such as the lack of specified objectives, the requirement of unanimity, the cumbersome decision-making structure, the lack of a body with an initiative-taking role, and the lack of suitable legal instruments. Tonra completes the introduction with a concise political appraisal of the politics of justice.

The other, more specific, contributions cover individual themes mentioned in Article K.1. They have been provided by a range of experts from different law disciplines. Without exception the contributions are of high quality. In particular the contribution by Val Flynn on Europol is to be mentioned. It offers information about the origin of police cooperation in Europe and the actual activities of the European Drugs Unit. Europol is presented as a suitable working platform for enhancing EU-level law enforcement cooperation. Barnes mentions in

his contribution arguments in favour of the development of a common European criminal law. He pleads in favour of a greater degree of cohesion and compatibility between the systems of criminal law and criminal procedure of the states of the EU. Forde completes this picture by referring to the little progress made so far in the field of criminal law cooperation.

In fact, apart from the deficiencies of the actual Third Pillar working methods, also the overlap between First and Third Pillar cooperation is a constant and important element in several contributions. This is the case for example in the contributions by Gilroy (customs cooperation), Paul Gormley (combat of drug abuse) and Eileen Barrington (fight against fraud). McGuinness and Barrington do stress in their contribution the limited results so far in the area of immigration, visa and border controls. Also here the inadequate working methods of the Third Pillar are hinted at: Title VI is characterized as a "recipe for disappointing results". Arguments have been put forward by these authors for a transfer of all these subject matters to the First Pillar, indeed one of the results arrived at by the Amsterdam Summit later on.

Shipsey's plea in favour of a unified asylum policy in the European Union is also interesting. He offers valuable arguments why such an approach – uniformity – is to be favoured over coordination or harmonization in this area. Duncan, discussing the combat of racism and xenophobia, mentions the opportunity of a separate legal basis for cooperation in this field: also a result arrived at by the Amsterdam Conference (new Article K.1 TEU contains an explicit reference to the combat of racism and xenophobia; new Article 6a EC offers a general framework to combat discrimination). In his turn Woulfe explains how slow and complicated business is in the area of civil law cooperation. Finally Whelan and Walsh analyse thoroughly the impact of fundamental rights on the work of the European Union.

All in all, this book offers a lot of valuable information: historic elements, current events, critical but constructive appraisals of the current state of play, and perspectives for further development.

The circumstance that the book was finalized before the end of the IGC 1996, is perhaps a disadvantage but not a real problem. In fact the book focuses on a series of problems which were discussed during the IGC. Furthermore final results which the Amsterdam Treaty arrived at – be it after long and difficult negotiations – are already hinted at. Of course the fact that Ireland at the time had the Presidency of the Intergovernmental Conference, enabled the authors to have an overall picture of the matter. All in all this book is not to be considered as a temporary contribution. It has a more far-reaching significance. As a final remark one may be surprised that this work comes from Ireland. As a non-member in the Schengen cooperation and particularly because of the existence of the "Common Travel Area" with the United Kingdom, Ireland took a specific stand in the IGC. In the end Ireland chose – together with the United Kingdom and Denmark – not to opt for communitarization and – together with the United Kingdom – not to opt for the integration of the Schengen cooperation in the European Union. On the other hand, the Treaty of Amsterdam shows flexibility from the Irish side in different respects. For example, in the "Protocol on the application of certain aspects of Article 7a of the EC Treaty to the United Kingdom and Ireland" it is only in the specific context of the "Common Travel Area", that (also) Ireland is entitled to exercise controls on persons at its frontiers with other Member States. Furthermore it is explicitly stated in the "Protocol on the position of the United Kingdom and Ireland" that Ireland may notify to the Presidency of the Council that it no longer wishes to be covered by the terms of the Protocol. A particular interest of Ireland to participate in the First Pillar cooperation is even illustrated by a complementary, unilateral, Irish declaration. This, in fact, reflects the statement in the Preface that, notwithstanding the difficult position of Ireland in the discussion, a proper debate as to the merits of the justice cooperation has to take place.

In conclusion: this book is to be welcomed.

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