SURVEY OF LITERATURE

General and Institutional

Apart from the abundant flow of very specialised literature on specific aspects of European integration and Community law one finds also regularly more general theoretical observations. Mr. *Léontin Constantinesco*'s article "La spécificité du droit communautaire" in *Revue Trimestrielle de Droit Européen* 1966, pp. 1-31, is one of these. The author indicates the tension between reality and desirability in Community law and by tracing the specific characteristics of Community law has come to certain conclusions about the relationship of this law to the national law of the member States. According to Constantinesco these characteristics are: the plurality of sources of Community law, the hierarchical relation between these sources leading to supremacy of primary Community law (*i.e.* the Treaties) above secondary law (*i.e.* the several implementing regulations). Finally he mentions the three main elements resulting from the nature of the Community: 1. the same significance in each member State, 2. binding force, 3. no alterations by national authorities. His conclusion is that Community law has priority above national law, and that this should be more clearly formulated in the treaties.

The entrance of Britain into the Common Market is again in the centre of interest. As will be remembered the *Journal of Common Market Studies* has devoted a special number (June 1965) to Britain's future relations with Europe; in that issue a group of authors strongly supported closer relations with the continent (see 3 C.M.L. Rev. 1965-6, pp. 6-7). In Vol IV, May 1966, pp. 229-237 this journal publishes an article by *Leonard Beaton* under the title "Britain's relations with Europe—a reply". The author doubts whether a unified Europe would be a union, capable "... of acting in spite of its size and diversity as an effective power able to define and, if necessary, defend its own interests"; he is not convinced by the arguments put forward by the ten authors. The community method of decision making would especially be ineffective in questions of foreign policy and defence.

R. J. van Schaik has written an interesting article in *Common Market,* 1966, Vol. 6, No. 6, pp. 106-111 under the title "Once upon a time: from economic integration to power politics". The author analyses the "spill-over effect" in the E.E.C., which promotes that economic integration together with the existence of economic pressure groups would lead to integration in other fields. He says that this effect exists indeed, especially as a result of the method of negotiation in Brussels with "package deals", but this effect will diminish, because the pressure towards integration will fade away when the central areas of integration have been dealt with and only border line subjects remain. This would restore the old fashioned power politics as the only means for further progress.

One of the important pressure groups are the trade unions. The view they have taken towards the E.E.C. and the E.F.T.A. are studied by *R. Colin Beever* in the *European Yearbook* XI, pp. 112-134. The unions have always been strongly in favour of economic integration. Their influence in the decision-making process of the E.E.C. is, however, rather weak; consequently a more militant attitude of the trade-unions may be expected in the future. For a better chance of success in this respect they should further a better and faster integration among themselves.

The same volume of the European Yearbook contains an article by *F. A. M. Alting von Geusau* on "European political integration: a record of failure and confusion". A distinction is made between two conflicting conceptions in Europe.

On the one hand is the conception of functional integration, according to which integration in a limited field would lead gradually to political union and to institutions with comprehensive powers. The European parliament seems to act from this idea. On the other hand one holds the view that political problems can only be solved in the classical way of solving these problems. This is the conception of De Gaulle, but in fact the governments of the other member States act from the same point of view. The writer has analysed a number of official propositions and the negotiations on the European Defence Community and the European Political Community in order to see what conceptions were prevailing. He concludes that political integration has failed so far, because one has not given enough time to the process of functional integration.

J.-M. Dehousse has contributed in *Annales de la Faculté de Droit de Liège,* 1965, No's 2-3, pp. 305-334, on the question whether the E.E.C. may be considered as a federal state. In the opinion of the author the essential criterion is whether judicial review exists. He goes on to conclude that in the E.E.C. judicial review does exist, not only of the acts of the Community institutions, but also of the national legislation in the member States. Dehousse bases this conclusion on the Van Gend en Loos and Da Costa cases, but he seems to go too far when he says that it follows from these cases that the national courts and the national legal systems are becoming subordinate to the Luxembourg Court and the Community legal system.

The factual history of the crisis in the Communities and the compromise reached in Luxembourg are reported in a comprehensive way by *John Lambert* in the *Journal of Common Market Studies,* Vol. IV, No. 3, 1966, pp. 195-228. A short note in the same subject by *E. Kobbert* is included in *Europa Archiv,* 1966, pp. 119-122.

For those intersted in the legal aspects of the Luxembourg agreement, the analysis by Mosler in *Zeitschrift für Ausländisches Oeffentliches Recht und Völkerrecht* 1966, No. 1, pp. 1-31 is compulsory reading. Mosler distinguishes three ways in which the Council of Ministers may come together: as an institution of the Community, as an intergovernmental conference, and as an institution and a conference, if both the Community and the member States have the capacity to act. The resolution concerning the majority decisions in the Council came from the members of the Council and partly from the delegations. The statement concerning the cooperation between Council and Commission came from the Council. The governments agreed on an application of the Treaty so as to try to achieve acceptable solutions in stead of taking majority-decisions. This is a political agreement with mutual sanctions. According to Mosler this agreement is juridically obligatory for the member States. Mosler mentions also some U.N. agreements (and their differences) where similar methods were used to reach an agreement, *e.g.* the financial crisis in the U.N. as a result of the expenses of the Congo action; the uniting for peace resolution and the agreements concerning the periods of session in the Security Council of non-permanent members. The wish of France to make special agreements in case of very important interests at stake in one of the member States makes it clear that there is still a strong tension in the Community between national sovereignty and subjection to supranational power. As to the most general "escape clauses" in the Treaties (Articles 37 ECSC and 226 EEC) the control on the application rested in last instance upon the community institutions. The Luxembourg agreement has set up a general escape clause to protect national interests which can be unilaterally invoked; however the other Member States are not bound to accept this interpretation. In case of a difference of opinion the Council decides whether this clause was invoked rightly in accordance with art. 148; if not, only the diplomatic channels remain. The Court of Justice is not competent to give judgment, because the agreement is no component part of the Treaty.

The significance of the Agreement for the community can be judged only after some time. In case the agreement should lead to the situation that no majority-decisions are taken in case important interests are involved, it might come to a change of the nature of the Community. On the other hand Mosler thinks it possible that the functioning of the Community will make the invocation of the "Interessen-klausel" more and more superfluous. The practical importance of the Agreement would very much diminish in that case.

The new German periodical for European law (*Europarecht,* issued by C. H. Beck, München/Berlin) starts its first number also with an article by *J. H. Kaiser* about "Das Europarecht in der Krise der Gemeinschaften" (1966, pp. 4-24). The article contains a very well documentated survey about the contents and the possible consequences of the crisis. The author's opinion is that the success of the european integration does not only depend on the way on which the Common Market concerns private enterprises directly, but on the practice of the subjective rights given to them. As well as in the economies of the Member States as in the enterprises, the social partners and the consumers have lacked will and capacity to a flexible adaptation of the deteriorated circumstances.

As regards the cause of the crisis Kaiser states that it is not european, but exclusively national. Its nature was a general political one. From this it follows that the institutional mechanism of the Common Market continued on the achieved integration level; new laws were only created there, where it filled up the already existing framework or adjusted law in force to modified economical circumstances.

Particularly in the Council the crisis manifested itself. Decisions of any political importance were not taken; on the other hand the fact of the cooperation to the Five in the Council, in its Committees and as representatives of the governments together within the framework of the Council, has extensive political significance. Indeed majority-decisions have been taken. Whether also decisions could have been taken for which unanimity was requested has not been determinated in practice. According to Kaiser it would have been possible. His conclusion is however, that the "Verfassungskompromiss" of 29 January 1966 means desintegration. With the Luxemburg Agreement the possibility has been opened for a development in which unwritten constitutional law deviates from the letter of the Treaties.

A very interesting politico-scientifical analysis of the EEC crisis of 1965-1966 is given by *L. N. Lindberg* in his article "Integration as a source of stress on the European Community System", *International Organization* 1966 pp. 232-265. His basis is the differentiation between the public system of the Community and the infrastructure of the integration, that is to say, the customs-union, the new trade patterns within the Community, the gradual interpenetration of trade and industry, the network of contracts and consultations of business people, farmers, tradesmen, employees, civil servants and the political influence on the management in the capitals. It is possible to support the latter without supporting the former and visa versa. According to Lindberg President de Gaulle shares the lastmentioned view. De Gaulle's idea was to restructure the political system of the Community—to strengthen the decision-making process and the part of the Commission in this by means of the April resolutions. Lindberg puts down to De Gaulle full knowledge of the integration theory and the "spillover" process and thinks that De Gaulle has been betting on the permanency and irreversibility of the integration, not challenging it. De Gaulle wanted to make use of the dynamics of the integration process to adjust the political system in order to keep and strengthen his influence on the other Five.

A detailed survey of the budget procedure in the E.E.C. is provided by *Revue du Marché Commun,* 1966, pp. 167-178. Much attention is paid to the application of the Articles 199 and 203 of the Treaty.

The difficulties that arise as a result of the fact that the Treaty is written

in four languages, and that these four texts are equally authoritative, are discussed in the *Nederlandse Juristenblad* 1966 by *G. van Ginsbergen* (pp. 129-134 and 429), *H. H. Maas* (pp. 301-303) and *G. W. Maas Geesteranus* (pp. 537-9). They deal mainly with the Dutch text of the Treaty.

The universities of Brussels and Louvain have organised a colloquy on the adaptation of the Belgium constitution to modern international developments. The interesting reports by *M. Waelbroeck, Y. van der Mensbrugghe, P. de Visscher, J. J. A. Salmon* and *E. Suy* are now published in *Rechtskundig Weekblad* Vol. 29, 1966, No. 40.

In *Revue Trimestrielle de droit européen,* 1966, (pp. 79-112) *François Vincent* describes the presidency of the European Assemblies. This is one of the rare articles on the subject. It deals with the Consultative Assembly of the Council of Europe, the Assembly of WEU and the Parliament of the European Communities. The main question the author seeks to answer is in which direction the presidency has developed: towards the rôle of the leader, as in the English Parliament, or towards the arbiter of the French parliamentarian tradition. After a thorough account of the statutes and the rules of procedure, of the president's task as an organizer of the debates, and of his representative—external—functions, it is the author's conclusion that the presidency tends towards 'leadership'. This, however, has not been in Vincent's opinion a consequence of the letter of the statutes but has been the result of the personalities of those invested with the presidency.

The literature about the European Communities is becoming uncountable, says *H. Wagner* in *Archiv des öffentlichen Rechts* 1966, no. 2 in his article "Wichtige Literatur zu den europäischen Gemeinschaften" pp. 257-286. He discusses among others the general handbooks, literature about institutional questions, the legal sources and the legal protection. Only books are dealt with; no articles are mentioned. Mr Wagners survey is very instructive to find the most important literature.

Free Movement of Persons, Services and Capital

Picard and *Besson* have written on the draft directive on the coordination of the legal and administrative provisions governing the insurance business in *Revue Trimestrielle de Droit Européen,* 1965, No. 4, pp. 515-525. A short survey of the draft directive is included, and the counter-proposals of the Comité Européen des Assurances on the margin of solvability are mentioned. Since the article was published at a rather early stage no reference is made to the complementary investigation on this question, which gives the numbers in the draft a rather provisional character. The authors take the position that the directive should apply to all insurance companies within the Common Market, and not only to those companies that do business in more than one of the member States; otherwise distorsion and discrimination according to nationality cannot be avoided.

According to the General Programmes the freedom of establishment and the free supply of services in the independent professions should be realized before January 1, 1970. *Van der Feltz* has written on this subject as far as it concerns the legal profession in *Advocatenblad,* 185-200. For many professions the existing limitations on the freedom of establishment are caused by the differences in professional training. The problem is more complicated for the members of the bar as a result of the important differences that exist between the member States in relation to the functions performed by lawyers. The national bar associations try to find a solution according to which the foreign lawyer must ask for the assistance of a local lawyer. This is already the practice between France and Belgium.

The consequences of the "free movement of services" for the barrister and sollicitor have been dealt with by *S. -P. Laguette* in *Revue Trimestrielle de Droit Européen* 1966 April-June pp. 242-255. Brackers d'Hugo has advocated to construe the barrister's activities as "exercise of governement action" as to exclude this profession completely from this chapter of the Treaty and to maintain the already liberal French practice regarding foreign barristers. Laguette on the contrary tries to split up—as usually is done—the activities of the barrister into government and non-government action, the distinction being determined by national law. This construction demands consequently the harmonisation of the national legislations: a laborious work indeed. Should not that be a reason for the author to drop national legislation as the determining factor?

Two draft directives on tenders by public authorities are criticized by *Lehning* in *Wirtschaft und Wettbewerb* 1966, No. 1, pp. 3-29. The directives would limit the freedom of the public authorities to a large extent. They would provide for a general prohibition of discrimination, which cannot, in the author's opinion, be based on the Articles 7, 54, 63 or 100 of the Treaty, nor on the General Programmes. Another important objection to the drafts is that they do not refer at all to the Articles 86 and 87 of the Treaty.

Company Law

Professor *Van der Grinten* has criticized the line of action taken by the E.E.C. in the field of company law (*Sociaal Economische Wetgeving* 1966 April-May pp. 201-210). As is well known the Commission drafted two directives ex Art. 54. These should inturn be elaborated through a whole series of directives. This method calls forth serious uncertainty of law.

Another approach of the "European" company is the—still unpublished—draft of a treaty ex Article 220. Its scope is—in Van der Grinten's opinion—too narrow to justify this form. Moreover it will contribute to further confusion, as there exist already many treaties. Having dealt with the recognition of foreign companies in detail the author proposes as an alternative a treaty complementary to the Treaty of 1956 regarding this recognition. The 1956-Treaty has not yet come into force though and—as the author admits—his proposal is in conflict with Art. 220.

Competition

Many authors have paid already ample attention to the three important cases decided by the Court of Justice in July 1966 (Grundig-Consten; L.T.M. v. M.B.U.; Italian Government v. E.E.C. Council and Commission; all three reported in 4 C.M.L. Rev. 1966-7, pp. 197-220).

Mailänder has written a very clear note on these cases in *Der Betriebs-Berater* 1966, pp. 834-843. The author does not agree with the ruling of the Court in the Grundig-Consten case that the prohibition of Article 85 (1) applies to any agreement, irrespective of its effects, if only a restriction of competition is intended. This goes too far, especially for agreements on trade marks. According to the author it would have been preferable if the Court would have considered the agreement on the trade mark GINT as an indication for the illegal intentions of the parties. *Gleiss* and *Hootz* write in *Aussenwirtschaftsdienst* 1966, pp. 310-312 that the Court should not have considered only the market of Grundig products in France, but should have taken into account as well the competition of similar products of different makes. The writers conclude from the interpretation by the Court of the words "liable to affect trade between member States" in Article 85 that sole agency agreements without territorial protection are not covered by Article 85. It is regrettable that no arguments are put forward for this proposition, since it seems rather disputable.

An annotation to the Grundig-Consten case is also included in *Journal des Tribunaux*, pp. 485-486. As to the same words in Article 85 the annotator, *Braun*, takes the view that the Court has followed the "qualitative" interpretation of the Commission. It seems, however, that the Court has paid more attention to the requirement that the partition of the markets must be abolished. With regard to the rights of the parties in proceedings before the Commission the writer is of the opinion that the Court should have based its ruling that it is not necessary for the Commission to produce the whole of the file on the obligation to maintain secrecy rather than on the argument that the procedure before the Commission has an administrative character.

The case Italian Government v. Council and Commission, decided by the Court of Justice on July 13, 1966 (4 C.M.L. Rev. 1966-7, pp. 202-209), is annotated by *Pierre-A. Franck* in *Journal des Tribunaux* of October 15, 1966, No. 4545, pp. 582-585. The author analyses the main arguments, put forward by the Italian Republic.

Spormann comments on the draft regulation for a group exemption of bilateral sole agency agreements in *Aussenwirtschaftsdienst* 1966, pp. 333-338. The draft was published by the Commission in the Official Gazette (see the Legislation Section, p. 000, in this issue). The author agrees with the draft, because the regulation will increase legal security. It must be said, however, that the wording of the draft is not very careful.

In *Wirtschaft und Wettbewerb* 1966, pp. 559-566 *Döringer* writes on the notification of agreements, that existed on the day that Regulation No. 17 came into force, and for which notification is not obligatory according to Article 4, para. 2, of that Regulation. But they can be notified, and if this is done before January 1, 1967, the Commission may grant an exemption with retroactive effect. According to the author such an exemption has also consequences for the position of third parties. This may be doubted since the Commission has said in its Hummel-Isbecque decision that the retroactive effect of the exemption would not have any influence on the relationship with third parties.

K. Markert has written two articles on competition. In *Revue Trimestrielle de Droit Européen*, 1966, pp. 66-78, he has dealt with sole agency agreements in German law. Except in a few cases these agreements are valid until they are declared null and void by the competent authorities on the basis of Article 18 of the Gesetz gegen Wettbewerbsbeschränkungen. This Article has been amended recently; the old Article was applied in only two cases. According to the author third parties (parallel importers) are not bound to respect the agreements.

In *Aussenwirtschaftsdienst* 1966, pp. 41-47 the same author comments on the Cement Convention case, decided by the Brussels Court of Appeal on June 25, 1964 (3 C.M.L.Rev. 1965-6, pp. 245-246). He agrees with the Court's decisions that the provisional validity of the agreement does not mean that it can be enforced in court, and he pays ample attention to the arguments of Deringer, who takes the other position. The second question decided by the Court was that it had to suspend proceedings until the E.E.C. Commission should decide on the request for exemption (the Commission had initiated proceedings within the meaning of Article 9 (3) of Regulation No. 17). Markert also agrees with this part of the judgment, but it may be doubted whether his interpretation of the Court's reasoning is correct.

René Joliet has made a comprehensive study of the law of the public enterprises in the E.E.C. in *Annales de la Faculté de droit de Liège*, 1965, No. 1, pp. 23-92. The public enterprise and also the State as a buyer often hold a dominant position in the market. For that reason national and E.E.C. rules on competition may apply to them, and fiscal discrimination will be forbidden by Article 90 of the E.E.C. Treaty. In the Coal and Steel Community the same rules apply to private and public enterprises. The author is of the opinion that this is also true for the

E.E.C.: Article 90 does not provide a special system of rules for public enterprises, but only provides for a few rules that complement Articles 85 and 86. Joliet studies the criteria for the public character of an enterprise in Belgium, Germany and France, and in the E.E.C. Treaty itself. He concludes from the second paragraph of Article 90 that the enterprises referred to in this paragraph are not bound to ask for a decision by the Commission on the basis of Article 85.

Social Policy

Lyon-Caen offers regular reviews of the case law of the Court of the European Communities on social security in *Revue Trimestrielle de Droit Européen.* In Volume 1 pp. 84-94, the cases 75/63 (Unger), 92/63 (Nonnemacher) 100/63 (Van der Veer) and 24/64 (Dingemans) are discussed. Special attention is paid to the different areas of applicability of Community law and national law, to the differences between these laws and to the conflicting rules that exist within Community law itself. In the same Volume, pp. 425-432 the cases 31/64 (Bertholet) and 33/64 (Van Dijk) are analysed. They deal with the interpretation of Regulation No. 3, especially with Article 52 of this regulation. The Case 44/64 (Singer) deals with the same regulation; it is reported in *Aussenwirtschaftsdienst* 1966, pp. 38-39 with a short annotation, mainly on Article 177 of the Treaty.

The most comprehensive survey of the case law on social security is provided by *T. Koopmans* in *Sociaal Maandblad Arbeid* 1966, pp. 314-329. All cases mentioned above, and the case 33/65 (Dekker) are reviewed, which makes the survey complete till December 31, 1965. The author describes the E.E.C. rules on social security, and the task of the Court in this field. Since the E.E.C. has not its own system of social security the Court has to confine itself to the development of rules for conflicts of law in cases which are referred to it by the national courts. An extensive analysis of the cases is included.

The judgment of the French Cour de Cassation of February 16, 1965 is reported in *Recueil Dalloz* of November 10, 1965, No. 37 with a long note by *M. Voixin,* in *Droit Social* 1965, pp. 526-528 and in *Revue critique de Droit International Privé* 1966, pp. 88-95 with an annotation by *Lyon-Caen.*

Recueil Dalloz of April 20, 1966 also offers the text of a judgment by the Cour d'Appel of Limoges of February 2, 1966; it is followed by some reflections of *J. J. Dupeyroux* on the Commission's recommendation of July 23, 1962 which contains a delimited enumeration of occupational diseases, but which provides for compensation for migrating workers if the disease results clearly from their occupation, even if it is not mentioned in the list.

The judgment of the Cour d'Appel of Paris of May 4, 1964 is reported in *Journal de Droit International* 1965 and annotated by J. *Rebelles-Thillhet* (pp. 642-646).

In *Droit Social* 1966, pp. 236-240 *Albert Delpérée* pays attention to the rules in Regulation No. 3 pertaining to family allowances.

Collective bargaining in the Common Market is the subject of two articles in the same periodical, one by *R. Alluson* (1965, pp. 492-502) and the other by *M. Despax* (1965, pp. 616-621).

Léon-Eli Troclet writes on the social aspects of the mergers of the executives and of the Communities (the title of the article speaks only of the merger of the executives, but the article goes further) in *Cahiers de Droit Européen* 1965, No. 3, pp. 215-225. The author deals with the reports of the Social Committee of the European Parliament and of the Consultative Committee of the Coal and Steel Community on the consequences of these mergers for the social policy.

The principle of equal pay for men and women, which can be found in the Treaty, is not yet realized in practice as is made clear in an article by *C. N. F. Swarttouw* in *Sociaal Maandblad Arbeid* 1966, pp. 32-40. The situation in the

Netherlands is compared with the situation in the other member States. The author concludes that a number of economic reasons makes it possible to introduce the principle only very gradually.

Case law of the Court of Justice of the European Communities and the National Courts

In *Sociaal-Economische Wetgeving L. J. Brinkhorst* discusses a great number of Dutch cases, and pays special attention to the application of the Articles 85 and 86, and of Article 177 of the E.E.C.-Treaty by the Dutch judiciary. The preliminary procedure, which was unknown in Dutch law, has been fully accepted in the Netherlands.

A number of Belgian cases involving Community law are published recently, together with short annotations. *Van Gerven* comments on two cases in which parallel importers of Grundig products were sued for damages by the sole agent for these products in Belgium (*Rechtskundig Weekblad* 1966, cols. 997-1000). The actions were succesful; but on appeal the judgments were reversed. *Suetens* writes on the decisions by the Courts of Appeal in *Rechtskundig Weekblad* 1966, No. 35.

G. Bricmont has written a note on a case, dealing with an action for damages based on the unilateral repudiation of a sole agency agreement. The agreement is held null and void, and no damages are awarded. Bricmont discusses the possibility of a conversion of an illegal sole agency agreement with absolute territorial protection into an agreement without such protection (*Cahiers de Droit Européen* 1966, pp. 317-323).

The legal protection in the Communities remains a subject of much concern to many authors. *Riese,* former judge of the Court, is of opinion that a private's party's right to challenge Community acts is too restricted and the interpretation of the notion "abuse of powers" (detournement de pouvoir) is too narrow (Europarecht, 1966, pp. 24-54). As an example he cites the cases 40/64 (3 C.M.L.Rev. 1965-6, pp. 91-92) in which the Court rejected the plaintiff's appeal by referring to the "clear" wording of Article 173. The plaintiff considered this refusal to have his rights protected a violation of legal norms applicable in all six countries. When considering the notion of "direct and individual concern" the author shares the opinion of Lagrange and Daig that the interpretation offered by the Court is an incorrect restriction of the right of appeal. Neither is the protection of Article 177 a perfect one, since the national judge himself determines the existence of a question of interpretation. Furthermore Riese puts forward the possibility of admitting dissenting opinions and of establishing a court of first instance (e.g. an Adv. Gen.) for certain cases.

In the Toepfer case, (joint cases 106 and 107/63) a decision of the Commission directed to a member State was held to be of direct and individual concern to the plaintiff. *Ipsen* observes in *Europarecht 1966, pp. 58-61,* that no general conclusions may be drawn from this judgment with respect to a more liberal interpretation of the scope of private party's rights to appeal. The Court attempts to find the interpretation which offers the party as much protection as the text of Article 173 can provide. Ipsen considers it to be doubtful whether a decision which maintains a national decision, valid *in se,* can be held to confirm this decision *ex posteriori.* In his opinion the national decision has been valid from its origin and its binding force did not depend on the Commission's decision. The author concludes that the Court uses a material criterion unlike the A. -G. who had proposed a formal one.

Erik Petersen has published a short comparative study on the appeal for annulment in British and Community law (*Revue Trimestrielle de droit Européen,* 1966, pp. 256-267). In Community law an effective appeal against general deci-

sions is lacking. The author favours the appointment of an Attorney-General who would, on request of a private party, point out to the Authorities possible illegalities in general acts taken by them. The influence of such an "Ombudsman" will depend to a great extent on his personal prestige. Apart from this point it is questionable whether the appointment of such an official would fit into the picture of the Community system of legal protection.

Methods of interpretation are of great importance for every judicial body charged with applying the law. *Degan* (*Revue Trimestrielle de Droit Européen,* 1966, no. 2, pp. 189-227) has made an analysis of the methods of interpretation which are used by the Court of Justice of the European Communities and by the International Court of Justice. There are three main factors which determine the results of an interpretation; to wit: the choice of the method; the interpreting organ; the nature of the Treaty to be applied. As to the methods one can draw a distinction between a textual, a subjective and a functional method. The author discusses the extent to which both judicial organs make use of these methods. The principal method for the work of both Courts is the textual method of interpretations although the way each Court handles this method differs considerably. The Court of Justice attributes a Community sense to certain terms, it applies extensive interpretation and rejects the subjective method. Thus in his opinion the Court applies the law in much the same way as a domestic court.