

## SURVEY OF LITERATURE

### a. *Contents*

#### I. *European Communities*

1. General
2. Institutional
3. Court of Justice
  - (a) General
  - (b) Treaty violation by a member State
  - (c) Preliminary rulings
  - (d) Indemnity actions
  - (e) Protocol privileges and immunities
4. The relationship between Community Law and national law

#### A. *European Economic Community*

5. Customs union
6. Agriculture
7. Free movement of persons and services
8. Transport
9. Competition
10. Taxation
11. Harmonization of legislation
12. Economic policy
  - (a) General
  - (b) Commercial policy
13. Social policy
14. Company law
15. Recognition of judgments
16. External relations

#### B. *European Coal and Steel Community*

#### C. *Euratom*

### II. *Council of Europe*

#### A. General

#### B. Human rights

### b. *List of abbreviations*

A.Ae.	—	Ars Aequi (Netherlands)
A.J.C.L.	—	American Journal of Comparative Law
A.J.I.L.	—	American Journal of International Law
Ann.fr.dr.int.	—	Annuaire français de droit international
A.W.D.	—	Aussenwirtschaftsdienst des Betriebsberaters
B.B.	—	Der Betriebs-Berater
Buffalo Law Rev.	—	Buffalo Law Review
Cah.dr.europ.	—	Cahiers de droit européen
Dr.Soc.	—	Droit Social
E.A.	—	Europa Archiv
EuR.	—	Europarecht
Gaz.Pal.	—	Gazette du Palais
G.R.U.R.Int.	—	Gewerblicher Rechtsschutz und Urheberrecht—Internationaler Teil
Harv.L.Rev.	—	Harvard Law Review

I.C.L.Q.	— International and Comparative Law Quarterly
J.C.P.	— Juris-Classeur périodique (La Semaine juridique)
Journ-Comm.Mark. Studies	— Journal of Common Market Studies
Journ.dr.intern.	— Journal du droit international
J.T.	— Journal des Tribunaux
J.Z.	— Juristenzeitung
M.D.R.	— Monatsschrift für deutsches Recht
New L.J.	— New Law Journal
N.J.	— Nederlandse Jurisprudentie
N.J.B.	— Nederlands Juristenblad
N.J.W.	— Neue Juristische Wochenschrift
N.T.I.R.	— Nederlands Tijdschrift voor Internationaal Recht
N.V.	— De Naamloze Vennootschap
R.C.A.D.I.	— Recueil des Cours de l'Académie de Droit International de la Haye
Rev. belge dr.int.	— Revue belge de droit international
Rev.crit.dr.int. privé	— Revue critique de droit international privé
Rev.crit.jur.belge	— Revue critique de jurisprudence belge
Rev.dr.int.	— Revue de droit international
Rev.dr.int. et dr.comp.	— Revue de droit international et de droit comparé
Rev.fr. de sc.polit.	— Revue française de science politique
Rev.int.dr.comp.	— Revue internationale de droit comparé
Rev.trim.dr.europ.	— Revue trimestrielle de droit européen
Riv.Dir.Eur.	— Rivista di diritto europeo
R.M.C.	— Revue du Marché Common
R.W.	— Rechtskundig Weekblad
S.E.W.	— Sociaal Economische Wetgeving
S.M.A.	— Sociaal Maandblad Arbeid
Sol.J.	— Solicitors' Journal
Stanford L.Rev.	— Stanford Law Review
T.P.R.	— Tijdschrift voor Privaatrecht
Tul.L.Rev.	— Tulane Law Review
T.V.V.S.	— Tijdschrift voor Vennootschappen, Verenigingen en Stichtingen
U. Pittsburg L.Rev.	— University of Pittsburgh Law Review
Va.L.Rev.	— Virginia Law Review
W.R.P.	— Wettbewerb im Recht und Praxis
W.u.W.	— Wirtschaft und Wettbewerb
Zeit.A.O.R.V.	— Zeitschrift für ausländisches öffentliches Recht und Völkerrecht

## I. EUROPEAN COMMUNITIES

### 1. General

F. Dumon, "La notion de disposition directement applicable en droit européen", 4 *Cah.dr.europ.* 1968, 369-394.

The report of the second permanent commission of the International Federation for European Law (FIDE). The Commission tries to define the notion "self-executing". It analyzes the relevant case law of the Court. A difference is made between "self-executing" and "self-sufficient" Treaty provisions. The report ends with a number of statements, partly general, partly in respect of the various decisions which can be taken.

Y. de l'Ecotais and Ph. Lemaitre, "Le marché commun reste à faire", (1968) *Agenor* 50-55.

The situation within the Community on July 1, 1968, the date of completion of the customs union.

P. Gerbet, F. de la Serre a.o., "La candidature de la Grande-Bretagne aux Communautés européennes", (1968) *Rev.fr. de sc.polit.* 859 *et seq.*

N. Heathcote, "Western integration and German reunification", *Journ.Comm.Mark. Studies* 1968, 102-118.

The connection between Western-European integration and German reunification. The author applauds the German membership of the EEC, because in this way the relations between this country and its European partners could be normalized. She doubts, however, whether the Community, as such, will be able to solve the problem of the German reunification. It seems that this problem can only be solved by negotiations between the two German States and between these and the Soviet Union.

J. L. Heldring, "No Unity for Europe", 2 *Interplay of European/American Affairs* 1968, 41-43.

The author explains that the failure of the political unification of Europe is due to the stubbornness of the national State as a political factor. This stubbornness is a result of the emotional stimuli and moral values, which prevail in the relationship between citizens and their national State. So the idea of the *Schumann* Plan, that a strong economic community of interests gives immediate impetus to political integration, bypasses the fact that the political interests which are embodied in the national State are of a higher moral order than economic interests, which are based on self-interest. The author notices that the more economic integration proceeds, the more pressure groups for further integration in the political field become satisfied and are losing their driving powers. To see, moreover, that there is a lack of unity of vision in relation to the aims of foreign policy, there is not, in the author's opinion, any prospect for political unity in Europe in the near future.

H. van Houtte, "De organisatie van de gemeenschappelijke macht en de Europese éénmaking", 32 *R.W.* 1968, No. 13.

J. L. Iglesias Buigues, "La nature juridique du droit communautaire", 4 *Cah.dr. europ.* 1968, 501-531.

The author proposes to qualify the law of the European Communities as "*droit communautaire européen*".

A. Kees, "Die Dynamik Europäischer Koordinierungspolitik", 124 *Zeitschrift für die gesamte Staatswissenschaft* 1968, 586 *et seq.*

H. W. Lessing, "La Grande-Bretagne et l'Europe", (1968), *Les problèmes de l'Europe*, 7-15.

Problems connected with Britain's entry into the Communities. The need for Britain to alter its agricultural policy. In the economic and financial field, the difficulties concern especially the pound sterling, which should be supported by the other European currencies. On the other hand, the Communities can profit from Britain's experience in the field of international trade, investments and mergers.

M. van Lunen, "Politique et économie dans l'intégration européenne", (1968) *Les problèmes de l'Europe*, 12 *et seq.*

H. Mosler, "Begriff und Gegenstand des Europarechts", 28 Zeit. A.O.R.V. 1968, 481-501.

The development of European Law. An endeavour to come to a definition. In the narrow sense of the term, European Law encloses the law of European organizations; in a more extensive conception it includes also the law originating from national sources of law, in so far as they complete the European Law in its narrow sense. Legal research should pay special attention to the so-called "*ordre public*", *sc.* all rules which express the indispensable values of the Community.

N.N., "Alternativen für Europa. Modelle möglicher Entwicklungen in den siebziger Jahren", 23 E.A. 1968, 851-865.

The object of this article is to look for the common aims of West- and East-European countries and to elaborate alternative political possibilities for these countries. Three common aims can indeed be established: the maintenance of peace; further development of the European economy and, finally, the decrease of tension within Europe itself. Thereupon, six models for a future Europe are presented.

P. Pescatore, "Les droits de l'homme et l'intégration européenne", 4 Cah.dr.europ. 1968, 629-674.

The fundamental rights in the Communities. Stand of the discussion with regard to fundamental rights in the Communities. The formal principles of the Community constitution: principles of structure and of the rule of law. The material content of the fundamental rights in the Community constitution. Elements derived from international treaties regarding the rights of man.

D. Roser, "Vers la communauté politique européenne", (1968) *Les problèmes de l'Europe*, 26 et seq.

J. A. Salmon and M. Torelli, "La représentation juridique des Communautés Européennes", (1968) R.M.C., 815-822.

The first part of this article is devoted to the representation of the Communities within the legal order of the member States. The second part treats the representation before the Court of Justice. In the case of an appeal for annulment or of an indemnity claim the Community is represented by the institution which took the decision involved.

G. Schrans, "Herstel van de schade bij inbreuk op het Europees economisch recht door een onderneming, een lid-staat of een gemeenschapsinstelling", 32 R.W. 1968, 529-546.

Reparation for damage in case of a violation of the European economic law, *i.e.*, the material provisions of the Community Treaties, by an undertaking, a member State or a Community institution. As an example of the first case, the author discusses the violation of Community anti-trust law. Thereafter, some examples from Belgian legislation and jurisprudence are mentioned, relating to the second case (violation by a member State). The third case is dominated by special Treaty provisions (Articles 34 and 40 of the ECSC Treaty and 178 and 215 of the EEC Treaty).

P. Soldatos and G. Vandersanden, "L'admission dans la Communauté Économique Européenne", 4 Cah.dr.europ. 1968, 674-707.

An analysis of Article 237 of the EEC Treaty. The admissibility of the request for admission. The negotiation between the member States and the

applicant State with regard to the conditions of admission and the adjustments to the present Treaty.

P. Taylor, "The concept of community and the European integration process", 7 *Journ.Comm.Mark. Studies* 1968, 83-102.

Some theoretical considerations on the process of international integration and the forms of strategy which are most suitable in the pursuit of further integration. Subsequently the author discusses: some traditional concepts from the political sciences, the Community method of policy-making in the Europe of the Six and, finally, the present level of integration with the possibilities for further development.

## 2. *Institutional*

F. Bellanger, "Contribution à l'étude de la nature juridique des 'accords de Luxembourg' du 29 janvier 1966", (1968) *N.T.I.R.*, 179-196.

The juridical nature of the famous "Luxembourg Agreement". Can the Agreement be imputed to the Council? It appears that the Agreement has to be divided in different parts which can be considered as respectively an act of a conference of the Governments, an act of the representatives of the Governments of the member States taken within the Council of Ministers and an act of the Council. The author further deals with the juridical consequences of these acts and their binding force. The acts of the representatives of the Governments are qualified as "*mesures d'ordre intérieur*". The same qualification is applicable to the acts of the Council.

N. C. Braun, "La politique européenne de l'Italie vue à travers les débats parlementaires", (1968) *R.M.C.* 899-909.

Continuation of the author's articles dealing with the European political outlook of the member States as shown by the debates in the national parliaments. The present article has been devoted to Italy. It is stated that Atlantic co-operation and European unity have been the aims of Italian foreign policy for more than ten years.

A. Deringer, "Europäisches Gemeinschaftsrecht. Die Entwicklung bis Juli 1968", 21 *N.J.W.* 1968, 1563 *et seq.*

A. Deringer, "Europäisches Gemeinschaftsrecht. Die Entwicklung bis Oktober 1968", 21 *N.J.W.* 1968, 2181-2182.

Survey of the development of Community Law until October 1968. The enlargement of the Communities. Customs law. Foreign trade and common commercial policy. Restraints in intra-Community trade and technical impediments.

G. Gojat, "De la nécessité d'une juridiction arbitrale pour les fonctionnaires européens", (1968) *R.M.C.*, 919-923.

The article concerns two judgments of the Court of Justice (Case 15/67, *A. Bauer v. Commission*, *Recueil* XIII, 512 and Case 4/67, *A. Collignon-Muller v. Commission*, *Recueil* XIII, 470). Both judgments can be criticized, both from the common point of view of the agents concerned, and from that of effective personnel management. The author pleads for an establishment of a conciliation procedure before an arbitration body.

Cl. Lassalle, "Les comités et l'évolution institutionnelle de la CEE", 4 *Cah.dr.europ.* 1968, 395-419.

Besides the committees foreseen in the EEC Treaty (Economic and Social Committee, Monetary Committee, Transport Committee, Committee of Permanent Representatives) a great number of other committees have been established. They are partly related to co-operation between the Community and the member States, partly to collaboration between the Community and those who are interested on account of their profession or economic position.

H. von Meibom, "Lückenfüllung bei den Europäischen Gemeinschaftsverträgen", 21 N.J.W. 1968, 2165-2170.

The author gives an analysis of Article 235 of the EEC Treaty. He argues that this provision can be applied when the Treaty does not give sufficient competence to take the necessary normative or administrative decisions, or to assure uniform maintenance of these decisions. In his opinion it follows from the German fundamental law (*Grundgesetz*) that the Council, each time it wants to apply the present Article, has to indicate *in a separate decision* how far it relies on the powers thus conferred.

N.N., "La lettre ou l'esprit: la rôle de la Commission", (1968) *Agenor* 62-68.

The author gives two examples to illustrate his opinion that the Commission should perform its political task more in accordance with the spirit of the Treaty. In the case of the economic difficulties in France as a result of the crisis in May 1968, the Commission chose the procedure of Article 108 of the EEC Treaty because it did not want to create a precedent with regard to the other member States (*Agence Europe* No. 124 en 125, 1968), but failed to take this opportunity to promote solidarity between the member States by recommending appropriate methods of mutual assistance. Thereafter the letters are published which were exchanged between the members of the Commission Rey and Mansholt and the French Minister Debré in connection with Mansholt's statement that the result of the French elections did not facilitate European unification. In this case the Commission omitted to choose a position with reference to the question of the political freedom of the members of the Commission.

### 3. Court of Justice

#### (a) General

R. H. Lauwaars, "De bevoegdheden van het Hof van Justitie krachtens een toekomstig verdrag tot oprichting van een Europese Gemeenschap", 16 S.E.W. 1968, 350-406.

A report for the annual meeting of the Dutch Association for European Law, held on October 5, 1968, concerning the competence of the Court of Justice by virtue of a future treaty establishing one European Community (the Merger Treaty).

#### (b) Treaty violation by a member State

J. L. Fagnart, case note, 4 Cah.dr.europ. 1968, 560-574.

An annotation on the decision of the Tribunal at Brussels of June 9, 1966, in the case *S.P.R.L. Corn and Food Trading Co. v. Belgian State*. The compatibility of a certain Royal Decree with Articles 12 and 30-32 of the EEC Treaty.

#### (c) Preliminary rulings

W. A. Axline, "Legal integration through judicial fiat", 7 Journ.Comm.Mark. Studies 1969, 217-243.

H. W. Daig, "Aktuelle Fragen der Vorabentscheidungen nach Art. 177 EWGV, unter besonderer Berücksichtigung von Rechtsprechung und Praxis des Gerichtshofes der Europäischen Gemeinschaften", 3 EuR. 1968, 259-295 and 371-389.

An analysis of the Court's case law and the conclusions of the Advocates-General related to Article 177 of the EEC Treaty. The principles of the preliminary procedure. Conditions and limits of the *right* to refer to the Court (the meaning of court or tribunal of one of the member States; interpretation and validity; the necessity of an answer by the Court: the binding force of the decision of the referring tribunal). Conditions and limits of the *obligation* to refer. The procedure. The effect of a preliminary ruling.

J. L. Delvolve, "Le pouvoir judiciaire et le Traité de Rome ou la diplomatie des juges", (1968) J.C.P., I, 2184.

The attitude of the French courts regarding law suits which are related to questions of international law. The division of competence between the Court of Justice and the national courts. All competence which is rejected by the French courts—and which they in the case of other international treaties leave to the administration—are by the Community Treaties attributed to the Court of Justice.

L. Goffin, "Quelles sont les juridictions belges qui sont tenues au renvoi préjudiciel devant la Cour de Justice?", 83 J.T. 1968, no. 4629.

A. W. M. van Meer, "Nogmaals: het arrest Vaassen-Goebbels/B.F.M.", (1968) N.J.B. 826-827.

Some remarks concerning the judgment of the Court in Case 61/65 (4 C.M.L.Rev. 1966-67, 440).

H. Paetow, "Die 'Vorabentscheidung' nach art. 177 EWG-Vertrag, ihre formellen und materiellen Voraussetzungen" (1968) M.D.R., 806 *et seq.*

P. Selmer, "Zur Entscheidungserheblichkeit der Gültigkeitsfrage bei der Vorlage nach art. 177 des EWG-Vertrages", 14 A.W.D. 1968, 424-427.

The necessity to ask for a preliminary ruling in case the validity of a decision directed to a member State is doubted, notably of decisions rejecting a request for a tariff quota (Article 25 of the EEC Treaty) or for a measure of safeguard (Article 226). Because the Commission is obliged to issue a new decision when the former has been declared invalid, and the State involved has consequently the possibility of lowering, *e.g.*, its customs tariff, the necessity for the Court's decision can be confirmed.

#### (d) *Indemnity actions*

Dumon, "La responsabilité extracontractuelle des Communautés Européennes et de leurs agents", 1 Cah.dr.europ. 1969, 3-48.

The considerations and resolutions of the Commission for international law of the "*Union internationale des magistrats*" (Luxembourg, September 21, 1967).

E.-W. Fuss, "Grundfragen der Gemeinschaftshaftung", 3 EuR. 1968, 353-370.

The direct responsibility of the Community for damage caused by its functionaries to third parties. The illegality of the act of the institution, fault, causality, the notion of damage and the exclusion or reduction of responsibility in case certain given legal remedies are not used.

H. P. Ipsen, case note, 3 EuR. 1968, 405-408.

Annotation on a judgment of the *Oberlandesgericht Köln* of May 2, 1968, concerning the responsibility of the German Federal Republic (prolongation of the *Kampffmeyer* case, 5 C.M.L.Rev. 1967-68, 208-211).

H. P. Ipsen, case note, 4 EuR. 1969, 57-60.

Annotation on a decision of the *Landgericht Bonn* of October 29, 1968, concerning the same subject.

J. Peters, "De niet-contractuele aansprakelijkheid van de Europese Gemeenschappen", 16 S.E.W. 1968, 462-481.

The considerations and resolutions of the Commission for international law of the "*Union internationale des magistrats*" (Luxembourg, September 21, 1967).

(e) *Protocol privileges and immunities*

H. G. Schermers, case note, 17 A.Ae. 1968, 367-372.

Annotation on the judgments of the Court of Justice of February 8, 1968 (Case 32/67, *J. G. F. van Leeuwen v. Gemeente Rotterdam*) and of July 11, 1968 (Case 5/68, *C. M. Sayag and S. A. Zürich v. J. P. Leduc*).

4. *The relationship between Community Law and national law*

L. J. Brinkhorst, "Geldt de voorrang van het gemeenschapsrecht ook voor de Franse Conseil d'Etat?", 16 S.E.W. 1968, 519-528.

Annotation on the judgment of the French *Conseil d'Etat* of March 1, 1968.

L. Constantinesco, case note, 3 EuR. 1968, 318-330.

Annotation on the same judgment, accompanied by a short comment of H. P. Ipsen.

A. *EUROPEAN ECONOMIC COMMUNITY*

5. *Customs union*

H. Ditzges, "Die EWG-Zollwertanmeldung", 14 A.W.D. 1968, 427-429.

The proposal for a regulation of the Council on the valuation of goods for customs purposes.

A. Dubois, "Ce qui a été accompli et ce qui reste à faire pour le fonctionnement harmonieux de l'union douanière", (1968) R.M.C. 1007-1025.

The author examines whether the customs union has really been achieved, or, in other terms, whether the Community disposes of the customs instruments indispensable to a uniform application of a common customs tariff and the achievement of its commercial policy in respect of other countries.

D. Ehle, "Rechtsschutz und Rechtseinheit in Europäischen Zollrecht", 15 A.W.D. 1969, 41-46.

The legal protection and the uniformity of law in the field of European customs law. The necessity of a Community procedure for the solution of disputes in order to guarantee (1) the uniform interpretation and application of the common European customs law in the member States and (2) an equal and efficient legal protection of all citizens within the Community.



- R. Franceschelli, "Les monopoles nationaux de caractères commercial visés dans l'article 37 du Traité C.E.E. et leur aménagement", (1968) R.M.C., 855-876.  
 O. Jetter, "Der Anschluss-veredelungsverkehr in der EWG", 14 A.W.D. 1968, 388-390.

Subsequent phases of the processing of goods. The Commission's proposal for a directive concerning the inwards processing traffic.

- Y. Van der Mensbrugge, "Vers l'achèvement de l'union douanière dans la CEE", 5 Cah.dr.europ. 1969, 181-195.

The measures which are or will have to be taken in addition to the introduction of the common customs tariff.

#### 6. *Agriculture*

- F. Clerc, "L'amélioration des structures agricoles", (1968) *Les problèmes de l'Europe*, 37-44.

A survey of the policy of some member States concerning the agricultural structure.

- E.-W. Fuss, case note, 3 EuR. 1968, 295-305.

Annotation on the judgment of the Court of Justice of March 13, 1968, in Case 5/67 (*Firma W. Beus v. Hauptzollamt München-Landsbergerstrasse*, Recueil XIV, 126).

- V. Götz, "Zum Recht der gemeinsamen Agrarpolitik der Europäischen Wirtschaftsgemeinschaft", 21 N.J.W. 1968, 1545-1548.

When the establishment of a Community market organization has been completed for practically all agricultural products the question arises as to whether the competence granted by the EEC Treaty to the Community institutions, enables them to take all decisions necessary for the achievement of a common structural policy in agriculture.

- F. Hetman, "Présent et l'avenir de l'agriculture", (1968) *Les problèmes de l'Europe*, 23-31.

The elements which determine the development of agriculture.

#### 7. *Free movement of persons and services*

- J. P. de Crayencour, "Propos sur le droit d'établissement dans le Traité de Rome", 4 Cah.dr.europ. 1968, 420-435.

The freedom of establishment for the free professions.

- J. P. de Crayencour, "Le droit d'établissement et la presse", (1968) R.M.C. 972-978.

On July 1, 1968, the European Parliament adopted unanimously Professor Dehousse's report concerning a proposal for a directive on "the Press". The author first of all recalls the terms of this directive and then discusses the difficulties which it raises. Finally he lists the opinions of the Economic and Social Committee and the European Parliament.

- E. Heynig, "Freizügigkeit der Arbeitnehmer in der Europäischen Wirtschaftsgemeinschaft endgültig hergestellt", 14 A.W.D. 337-339.

Regulation No. 1612/68 of the Council of July 29, 1968 concerning the free movement of workers (J.O. 1968, L 257).

J. A. Huy, "Het Hof van Justitie van de Europese Gemeenschappen en de art. 27 en 28 van verordening no. 3 van de Raad van de E.E.G.", 23 S.M.A. 1968, 541-549.

A critical discussion of the jurisprudence of the Court concerning Articles 27 and 28 of Regulation No. 3 on the social security of migrant workers (see the judgments in Cases 1/67, *Ciechelski*, *Recueil XIII*, 235; 2/67, *de Moor*, *Recueil XIII*, 255 and 12/67, *Guissart*, *Recueil XIII*, 552).

O. Loy, "L'application de la liberté d'établissement dans les États membres de la Communauté Economique Européenne", 95 Journ.dr.intern. 1968, 673 *et seq.*

The application by the member States of the directives concerning the freedom of establishment and the free provision of services. The effect of directives in the national legal order. The juridical character of national executory measures.

J. W. S. Pabon, "Het vrije verkeer van werknemers binnen de Europese Gemeenschappen definitief tot stand gebracht", 23 S.M.A. 1968, 754-763.

Regulation No. 1612/68 of the Council of July 29, 1968 concerning the free movement of workers.

J. R. Rabier, "La presse imprimée franchit-elle les frontières?", (1968) R.M.C. 955-971.

This study examines the exchange of newspapers and periodicals from 1960 to 1966 between members of the European Community. Then the Community's exchanges with the rest of the world are shown, over the same period.

J. C. Séché, "Bilan de la jurisprudence de la Cour de Justice des Communautés européennes relatives aux règlements no. 3 et 4 concernant la sécurité sociale des travailleurs migrants", 4 Rev.trim.dr.europ. 1968, 475-512.

An analysis of the Court's case law concerning the Regulations Nos. 3 and 4 on the social security of migrant workers. Three underlying principles can be distinguished: the Regulations have to be interpreted in the light of the Treaty provisions on the free movement of workers; Article 51 does not aim at an approximation of the national legislations, but only at co-ordination, and Community Law prevails over national law.

G. M. J. Veldkamp, "L'harmonisation de la sécurité sociale dans la Communauté Economique Européenne", (1968) Dr.Soc. 674 *et seq.*

M. Voirin, "Jurisprudence commentée de la Cour de Justice des Communautés européennes", (1968) Dr.Soc. 486-488.

Annotation on the judgment of the Court in Case 19/67 (*van der Vecht*, *Recueil XIII*, 446).

M. Voirin, *idem*, (1968) Dr.Soc. 622-624.

Annotation on the judgment of the Court in Case 14/67 (*Welchner*, *Recueil XIII*, 428).

## 8. Transport

F. Capelli, "I trasporti nel Mercato Comune-L'armonizzazione delle legislazioni nazionali nel settore dei trasporti, 7 *II Diritto negli scambi internazionali* 1968, 213 *et seq.*

C. Katz, "L'impasse des transports européens", (1968) *Les problèmes de l'Europe*, 32 *et seq.*

J. G. Torley Duwel, "Verordening no. 1017/EEG van de Raad van 19 juli 1968, houdende toepassing van de mededingingsregels op het vervoer per spoor, over de weg en over de binnenwateren", (1968) N.J.B. 985-996.

Regulation No. 1017/68/EEC of the Council of July 19, 1968, on the application of rules of competition to transport by rail, road and inland waterways (J.O. 1968, L 175/1). The author sketches its backgrounds and gives a detailed description of its bases and contents.

J. J. H. Tromm, case note, 1 *Cah.dr.europ.* 1969, 55-63.

Annotation on the judgment of the Court in Case 28/66 (*Dutch Government v. High Authority of the E.C.S.C.*, 5 C.M.L.Rev. 1967-68, 476-478).

R. Wägenbaur, "Die Verkehrspolitik der EWG kommt voran", 14 *A.W.D.* 1968, 325-330.

The author discusses the decisions of the Council of July 18 and 19, 1968. It concerns *inter alia* Regulation No. 1017/68/EEC on the application of rules of competition to transport by rail, road and inland waterways; Regulation No. 1018/68 on the establishment of a Community quota for road haulage of goods between member States and a directive on the standardization of arrangements for the duty-free admission of fuel in the tanks of commercial motor vehicles (J.O. 1968, L 175).

R. Wägenbaur, "Wettbewerbsregeln für den Verkehr in der EWG", 14 *A.W.D.* 1968, 415-424.

Regulation No. 1017/68/EEC. The applicability of Articles 85 and 86 of the EEC Treaty on transport. The legal situation before this Regulation had been adopted. Its contents. The author discusses *inter alia* the nature of the communication of the Commission foreseen in Article 12 of the Regulation.

## 9. Competition

W. Alexander, "L'établissement du Marché Commun et le problème des brevets parallèles", 4 *Rev.trim.dr.europ.* 1968, 513-537.

Parallel patents and the EEC Treaty. The author argues that the provisions of national law which forbid the import of a product covered by a national patent have to be considered as measures having the same effect as a quantitative restriction, when the product concerned has been brought in circulation in the country of export by the owner of the right himself. In this case the Commission can issue, by virtue of Article 33, para. 7 of the EEC Treaty, a directive ordering the abolition of this "measure".

D. Bauer, "Zum Begriff der Wettbewerbsverzerrungen", 18 *W.u.W.* 1968, 728-737.

W. Benisch, "Kartellrechtlich zulässige Kooperation in Gemeinsamen Markt", 19 *W.u.W.* 1969, 3-12.

The announcement of the Commission with regard to agreements, decisions and concerted practices on co-operation between undertakings (J.O. 1968, C 75/3). In how far can the international co-operation between undertakings be promoted by a favourable interpretation of Article 85 para. 1 of the EEC Treaty.

- P. Finger, "Patentschutz und EWG-Kartellrecht", 21 N.J.W. 1968, 2178-2179.

A short contribution on the relationship between parallel patents and the EEC Treaty.

- P. Foriers and L. Simont, case note, 4 Cah.dr.europ. 1968, 445-471.

Annotation on the judgment of the Belgian Court of Cassation of June 8, 1967 (5 C.M.L.Rev. 1967-68, 323-325).

- R. Franceschelli, "L'entreprise communautaire", 4 Rev.trim.dr.europ. 1968, 538-547.

Has the notion "the undertaking" in the Community Treaties to be interpreted as a notion of Community Law or in the sense of the law of the member States.

Gleiss-Helm, "Berücksichtigung von Paralelverträgen bei Ausschiesslichkeitsverträgen im Gemeinsamen Markt", 21 N.J.W. 1968, 1553 *et seq.*

- H. Johannes, "Zum Begriff der Wettbewerbsbeschränkung in Art. 85 Abs. 1 des EWG-Vertrages", 14 A.W.D. 1968, 409-415.

An analysis of the concept of restriction of competition in Article 85, para. 1, of the EEC Treaty. Does this Article cover agreements and decisions which are not binding? Does it require the intention to affect the relevant market? Does the prohibition contained in this provision cover only the juridical or actual limitations or does it also cover the acts based thereon; does it cover only those limitations which are the object of an agreement or also those which are the consequence thereof; the limitations of the parties to the contract or also those of third parties?

- R. Joliet, "La coopération entre entreprises selon la jurisprudence de la Commission des Communautés européennes", 5 Cah.dr.europ. 1969, 127-180.

A critical analysis of the position of the Commission in a number of cases concerning the permissibility of co-operation between undertakings and restrictions of competition. The author blames the Commission for being too formalistic. It pays too much attention to the wording of an agreement without taking into account the whole market.

- W. Kartte, "Kooperation in der Marktwirtschaft", 24 B.B. 1969, 53-56.

The tension between the idea of co-operation and anti-trust law as laid down in para. 1 of the German *Gesetz gegen Wettbewerbsbeschränkungen* and Article 85, para. 1, of the EEC Treaty.

- F. Kirschstein, case note, 3 EuR. 1968, 306-310.

Annotation on the judgment of the Court in Case 24/67 (6 C.M.L.Rev. 1968-69, 129-132).

- K. P. Mailänder, "Mergers and acquisitions in the EEC", (1968) *New York University Journal of International Law and Politics* 19-36.

Juridical and economic aspects of mergers and acquisitions in the Common Market. A survey of actual problems.

- E. J. Mestmäcker, "Parallele Geltung von Verbotsnormen des deutschen und des europäischen Rechts der Wettbewerbsbeschränkungen", 23 B.B. 1968, 1297-1305.

The relationship between interdictions of German and Community anti-trust law.

E. Niederleithinger, "Deutsches Kartellrecht und das Gemeinschaftsrecht, 14 A.W.D. 1968, 371-376.

Same subject.

R. Plaisant, case note, 85 *La Propriété Industrielle* 1969, 47-54.

Annotation on the judgment of the Court in Case 24/67 (6 C.M.L.Rev. 1968-69, 129-132).

J. Robert, "La protection nationale des brevets d'invention peut-elle être en contradiction avec le droit communautaire de la concurrence", (1968) *Recueil Dalloz*, 581 *et seq.*

K. Rijks, "Concentration d'entreprises dans le Marché Commun", (1968) *La Fiscalité du Marché Commun* 121 *et seq.*

A discussion of those contributions to the fourth Fide-Colloquium (Rome, November 1968) which concerned the fiscal aspects of concentration.

Ch. Runge and P. Kohlhaas, "Das Recht der Kooperation", 24 B.B. 1969, 250-258.

The authors deal with the most current forms of co-operation. In 140 foot-notes they refer to practically all relevant literature about this subject.

S. J. Samwer, "Auswirkungen der Territorialität des Patentrechts im EWG-Bereich", (1969) G.R.U.R.Int., 1-14.

The consequences of the territorial effect of patent law in the EEC. The author disputes the view that the principle of territoriality is restricted by the aims of the EEC Treaty.

D. Schumacher, "Kollisionsfragen zwischen deutschem und gemeinschaftskartellrecht", 15 A.W.D. 1969, 85-89.

Annotation on the judgment of the Court of Justice of February 13, 1969, in the Case 14/68.

R. Singer, "Patent Cooperation Treaty und europäisches Patentrecht", (1969) G.R.U.R.Int., 83-85.

The relationship between the draft—Patent Cooperation Treaty and the European patent law.

K. Spormann, "Kommission der Europäischen Gemeinschaften erleichtert Kooperation", 14 A.W.D. 1968, 285-288.

The effect of the opinion of the Commission, that co-operation between undertakings, provided that such co-operation is economically desirable and does not present difficulties with regard to competition policy, has to be made easier, laid down in its first General Report (1967), can be seen in: (1) the announcement of the Commission with regard to agreements, decisions and concerted practices on co-operation between undertakings (J.O. 1968, C 75/3); (2) negative clearances in the cases of *S.O.C.E.M.A.S.* and *Machines-Outils* and an exemption *ex Article 85, para. 3*, of the EEC Treaty in the case of *A.C.E.C./Berliet* (J.O. 1968, L 201). In the opinion of the author co-operation between small and medium undertakings might be widened by the so-called "Bagatelle-clause". (See speech of Mr. Sassen in *EEC Bulletin* 1968, 31.)

K. Spormann, "Alleinvertrieb nach Drittländern und Verkaufssyndikate", 14 A.W.D. 1968, 457-459.

An analysis of the decisions of the Commission in the cases of Rieckermann/A.E.G.-Elotherm, Cobelaz and C.F.A. (J.O. 1968, L 276).

D. Tessin and J. Sedemund, case note, 23 B.B. 1968, 604-606.

Annotation on the judgment of the Court in Case 24/67 (6 C.M.L.Rev. 1968-69, 129-132).

Cl. Tessin, "Neue Entwicklungen im EWG-Kartellrecht", 21 N.J.W. 1968, 2173-2176.

The author discusses the announcement of the Commission with regard to agreements, etc., on co-operation between undertakings (J.O. 1968, C 75/3) and its decisions in the cases *S.O.C.E.M.A.S.*, *Machines-Outils* and *A.C.E.C./Berliet* (J.O. 1968, L 201).

M. Waelbroeck, "Cooperation Agreements and Competition Policy in the EEC", (1968) *New York University Journal of International Law and Politics*, 5-19.

The difficulties which co-operation agreements, e.g., concerning research, with regard to Article 85, para. 1, of the EEC Treaty. The different types of co-operation agreements which have been the object of a decision of the Commission. The criteria of the Commission. The author makes some critical remarks on the requirement that the agreement involved may only apply to national trade or the trade with third countries. The distinguishment between national, international and EEC markets is deemed artificial.

H. W. Wertheimer, case note, 16 S.E.W. 1968, 271-288.

Annotation on the judgment of the *Bundesgerichtshof* of February 29, 1968 (6 C.M.L.Rev. 1968-69, 236-237).

#### 10. Taxation

H. Debatin, "Spannungspunkte der Entwicklung der internationalen Steuerbeziehungen", 15 A.W.D. 1969, 125-131.

The development of international fiscal relations. The author doubts whether the completion of the approximation of indirect taxes has to precede the equally necessary harmonization of the direct taxes.

D. Ehle, "Grundsätzliche Aspekte der Vorabentscheidungen des Europäischen Gerichtshofes im Umsatzausgleichsteuerstreit", (1968) *La Fiscalité du Marché Commun*, 99-108 (with French translation on the same pages and English summary on p. 111).

A description of the principal aspects of the judgments of the Court of Justice of April 3 and 4, 1968 (6 C.M.L.Rev. 1968-69, 132-138).

H. Flick, "L'application de la taxe sur la valeur ajouté aux contrats à long terme avec l'étranger", (1968) *La Fiscalité du Marché Commun*, 55 *et seq.*

S. S. Han and G. K. Shaw, "Turnover Tax Harmonization in the European Community", 2 *Journal of World Trade Law* 1967, 97 *et seq.*

J. van Hoorn Jr., "Tax Problems of Exporting to and Doing Business with the European Economic Community", (1968) *British Tax Review* 151 *et seq.*

An analysis of (1) the tax aspects of exportation; (2) the tax treatment of various forms of doing business within a foreign country; (3) the consequences

of the existence of double taxation agreements and the extent to which such agreements affect foreign tax law with reference to the U.K.; (4) holding companies and the use of double taxation agreements in the establishment of a continental European business structure in order to benefit, where possible, from tax advantages, which otherwise might not be available to enterprises resident in the U.K.

J. Kauffmann, "L'imposition de la coopération et de la concentration internationales" (1968) *La Fiscalité du Marché Commun* 79 *et seq.*

G. Meier, case note, 14 A.W.D. 1968, 357-358.

Annotation on the judgment of the *Bundesfinanzhof* of July 11, 1968 (6 C.M.L.Rev. 1968-69, 414-419).

#### 11. *Harmonization of legislation*

H. Helm, "Allgemeine Schranken für die Rechtsangleichung nach dem EWG-Vertrag", 14 A.W.D. 1968, 453-457.

G. Holch, "Entscheidungen im Rahmen auf Art. 100 E.W.G.V. gestützter Richtlinien", 21 N.J.W. 1968, 1548 *et seq.*

#### 12. *Economic policy*

##### (a) *General*

J. Carissimo—Desuremont, "Vers une politique sectorielle textile communautaire" (1969) R.M.C. 14-19.

R. Hellman, "Auslandsinvestitionen und europäische Souveränität, 23 E.A. 1968, 676-684.

The part private investments play in foreign countries in West and East. Position and working method of multinational companies. The effect of the measures of the American Government. Economic interpenetration as a transitional stage towards an international economic order. A code for the governments of the industrial countries.

S. E. Moussis-Grammaticopoulou, "L'opinion américaine sur les investissements directs en Europe" (1968) R.M.C. 804 *et seq.*

##### (b) *Commercial policy*

R. Möhler, "Die Entwicklung einer gemeinsamen Handelspolitik im Rahmen der Europäischen Gemeinschaften", 24 E.A. 1969, 240-251.

The need to expand the common commercial policy to, for example, the liberalization of import, the policy of export credits and the conclusion of trade agreements.

D. Ehle, "Grundsatzfragen der gemeinschaftrechtlichen Antidumping Regelung", 14 A.W.D. 1968, 288-293.

Regulation No. 459/68/EEC of the Council of April 5, 1968, on protection against dumping, bounties or subsidies practised by countries which are not members of the EEC. The author gives an extensive description of its contents. He argues that the regulation for the transitional period (Article 26 of the Regulation) has no practical significance.

13. *Social policy*

S. A. Kuipers, "Werkt het beginsel van gelijke beloning van mannen en vrouwen rechtstreeks?", 16 S.E.W. 1968, 571-604.

The direct applicability of Article 119 of the EEC Treaty. The Court's case law concerning the requirements for the direct applicability of Treaty provisions. The obligation for the member States to give effect to Article 119. The author's conclusion is that the principle of equal payment as formulated in this Article fulfils the requirements mentioned above.

14. *Company law*

J. Dieu, "La reconnaissance mutuelle des sociétés et personnes morales dans les Communautés européennes", 4 Cah.dr.europ. 1968, 532-549.

The Convention on the Mutual Recognition of Companies and Legal Persons.

J. van Rijn van Alkemade, "Het Brusselse verdrag inzake erkenning van vennootschappen en rechtspersonen", 11 T.V.V.S. 1968, 189 *et seq.*

Same subject.

J. Tiling and O. Nissen, "Federal Corporations als Vorbild für die europäische Aktiengesellschaft", 14 A.W.D. 1968, 330-331.

A counter-proposal against the draft Statute for a European Company made by Professor Sanders.

C. AE. Uniken Venema, "Het EEG-Verdrag inzake erkenning van vennootschappen en rechtspersonen", 46 N.V. 1968, 108 *et seq.*

The Convention on the Mutual Recognition of Companies and Legal Persons.

15. *Recognition of judgments*

A. Bülow, "La Convention concernant la compétence judiciaire et l'exécution des décisions judiciaires en matière civile et commerciale" (1968) R.M.C. 1007-1016.

E. J. Cohn, "Recognition of Judgments", 119 New L.J. 1969, 109-110.

The article deals with the ratification of the Convention on the Jurisdiction of the Courts and the Enforcement of Decisions in Civil and Commercial Matters by the member States of the EEC. The new Convention provides that more substantial grounds must exist for the Court to found jurisdiction, but excessive jurisdiction is only abolished in cases where one of the parties is a resident of a member State. Article 26 of the Convention provides that the decision of the courts of any of the Six will be recognized in the others without the need for any further formal procedure. Excessive jurisdiction, hitherto a mere nuisance, may now become a veritable threat, according to the author.

P. Hay, "The Common Market Preliminary Draft Convention on the Recognition and Enforcement of Judgments—some considerations of policy and interpretation", 16 A.J.C.L. 1968, 149 *et seq.*

16. *External relations*

Th. Öhlinger, "Europäische Integration und Bundesverfassung" (1968) *Juristische Blätter* 169-184.



The author discusses the limits which follow from the Austrian federal constitution in respect of an agreement with the European Communities. As full membership would be incompatible with Austria's obligation to be neutral, he directs his attention especially to an association-agreement. Such an agreement should, according to proposals made by Austria in 1963, provide us with the establishment of a Council of Association and a court of arbitration.

## B. EUROPEAN COAL AND STEEL COMMUNITY

A. Sauwens, "Politique charbonnière de la Communauté Européenne" (1968) R.M.C. 848 *et seq.*

## C. EURATOM

M. Detant, "La documentation mécanisée à Euratom et le problème des brevets" (1968) *Revue de droit intellectuel* 223 *et seq.*

F. Oboussier, "Euratom und der Kernwaffen-Sperrvertrag", 23 E.A. 1968, 571-578.

The relationship between the Non-Proliferation Treaty and the Euratom Treaty. According to Article III of the N.P.T. no fissile material may be delivered to non-nuclear States, unless it has been guaranteed that the material will not be used for the manufacture of nuclear weapons. This interdiction would endanger the free circulation of this material within the Community, if certain member States would not ratify the N.P.T., because the deliverance of fissile material to these States would then be forbidden. It is further remarked that the I.A.E.A. control cannot replace the control by Euratom itself. The first should limit itself to the verification of the latter.

## II. COUNCIL OF EUROPE

### A. General

B. Aubenas, "Réflexions sur une fonction publique européenne. Le statut-type élaboré par la Conférence gouvernementale pour la fonction publique européenne", 13 *Ann.fr.dr.int.* 1967, 587-606.

A. Ch. Kiss, "Le Conseil de l'Europe et les suites données par les États membres aux textes adoptés par ses organes", 13 *Ann.fr.dr.int.* 1967, 547-565.

The author describes the efforts of the organs of the Council of Europe to bring member States to give greater effect to their recommendations and resolutions.

H. C. Krüger, "The Council of Europe and unification of private law", 16 *A.J.C.L.* 1968, 127 *et seq.*

J. Weber, "Die Bemühungen der beratenden Versammlung des Europarats um Effektivität", 23 E.A. 1968, 717-724.

### B. Human rights

E. A. Alkema, "De Europese Conventie voor de Rechten van de Mens uitgebreid. Blijft Nederland nog lang afzijdig?" (1968) *N.J.B.* 770-773.

C. Brinkhorst, case note (1968) *N.J.*, No. 49.

R. Cassin, "Droits de l'homme et méthode comparative", 20 *Rev.int.dr.comp.* 1968, 449 *et seq.*

W. J. Ganshof van der Meersch and others, "L'ordre publique et les droits de l'homme" 83 J.T., No. 4636.

G. Guarneri, "La Funzioni degli Organi Internazionale particolarmente del Consiglio d'Europa, per la tutela della Dignità umana" (1968) Rev.dr.int. 341 *et seq.*

H. Guradze, "Die Angemessenheit der Dauer der Untersuchungshaft nach Art. 5 Abs. 3 der Europäischen Menschenrechtskonvention", 21 N.J.W. 1968, 2161-2165.