

## SURVEY OF LITERATURE

### I. *INTEGRATION, ECONOMIC AND POLITICAL*

Lord Gladwyn, "Western Europe's Collective Defense", 51 *International Affairs* 1975, 166-175.

G. G. Kaplan, "Legal aspects of aircraft finance in Europe", 9 *J.W.T.L.* 1975, 136-160.

E. Schulz, "Moskau und das Problem der Integration in Westeuropa", 30 *E.A.* 1975, 383-393.

O. Schwerin, "Die Solidarität der EG-Staaten in der KSZE", 30 *E.A.* 1975, 483-493.

Otto Suto, "The problem of relationship between Comecon and EEC in the European policy of security and cooperation", 27 *Studia Diplomatica* 1974, 765-779.

W. Wagner, "Eine Station auf einem langen Wege. Zur geschichtlichen Einordnung der Konferenz über Sicherheit und Zusammenarbeit in Europa", 30 *E.A.* 1975, 479-483.

W. Wallace, "Europa: the changing international context, Implications for British policy", 31 *The World Today* 1975, 177-214.

### IV. *EUROPEAN COMMUNITIES*

#### A. COMMON SUBJECTS

##### 1. *General*

L. Bianconi, "Vers un droit pénal communautaire", 1975 *R.M.C.* no. 181, 33-40.

A. Deringer, J. Sedemund, "Europäisches Gemeinschaftsrecht. Die Entwicklung bis Januar 1975 (continued from *N.J.W.* 1974, 1600) 28 *N.J.W.* 1975 482-486.

W. J. Feld, J. K. Wildgen, "National administration and European integration. Saboteurs at work?", 13 *J. Comm. Mark. Studies* 1975, 244-265.

W. Feld, J. W. Wildgen, "Electoral ambitions and European integration", 29 *Int. Org.* 1975, 447-468.

A. Fischer, "By the skin of our teeth: Gedanken zum Stand der europäischen Integration", 30 *E.A.* 1975, 95-103.

F. Gundersen, "Das Diskriminierungsverbot im EWG-Vertrag", 28 *N.J.W.* 1975, 472-476.  
The author gives a personal view of Article 7. According to him, the discrimination prohibition is not directed to individual citizens, but has legal effects only for the member States and Community institutions.

E. Häckel, "Multinationale Konzerne—ein Motor der europäischen Integration?", 30 *E.A.* 1975, 277-289.

N. Hansen, "Die europäische politische Zusammenarbeit bei den Vereinten Nationen. Die Neun suchen in New York Profil", 30 E.A. 1975, 493-501.

Analysis of the voting patterns of the nine member States in the framework of the U.N. The number of common votes is slowly increasing, but in view of the final objective—European unity—the situation is still far from satisfactory.

G. Maier, "Die Europäische Gemeinschaft im Uebergang", 21 *Recht der Internationalen Wirtschaft/A.W.D.* 1975, 65-68.

At the present stage of integration, according to the author, European integration shows signs of collapse as well as of further development. As examples he mentions economic and monetary policy, the decision-making process and the extension of the Community.

W. Much, J. C. Séché, "Les droits de l'étranger dans les Communautés européennes", 11 C.D.E. 1975, 251-280.

This article gives a well-documented picture of the position of foreigners in the European Communities. A clear distinction is made between the more favoured position of Community nationals, and that of nationals of third countries.

P. Pescatore, "L'intégration européenne: perspective nouvelle pour le pouvoir judiciaire", 90 J.T. 1975, no. 4908.

Text of a lecture given in Brussels in May, 1974. A discussion of various developments in Community law, including the areas of free movement of persons and goods and of agriculture. There is further discussion of the preliminary rulings procedure and of the action for failure to act, and, finally, the author expresses certain ideas regarding the influence of Community law.

P. Taylor, "The politics of the European Communities: the confederal phase", 27 *World Politics* 1975, 336-361.

R. S. Wood, "The diplomacy of the enlarged European Community", 137 *World Affairs* 1974, 3-23.

## 2. Institutional

M. Ayrat, "La présidence du Conseil", 1975 R.M.C. no. 184, 163-167.

R. Bieber, M. Palmer, "Power at the top—the EC Council in theory and practice", *The World Today* 1975, 310-318.

The authors analyse the decision-making process of the European Communities. Since 1966 the special relationship between the Council and the Commission which is supposed to form the basis for Community decisions has functioned badly. Instead, certain new organs, such as the Committee of Permanent Representatives and the Summit Conference have been created, and have strengthened the position of the member States.

H. Deheyn, "Das Gipfeltreffen von Dublin", 30 E.A. 1975, 247-251.

F. Dehousse, "Réflexions à propos des élections européennes de demain", 1975, R.M.C. no. 182, 49-57.

U. Everling, "Die E.G. nach der zweiten Pariser Konferenz. Zu den Ergebnissen der Konferenz der Regierungschefs vom Dezember 1974", 30 E.A. 1975, 59-69.

A description of the development of the Communities between the two Paris Summits of 1972 and 1974. In 1972 the plan was formed to progress toward political union; but various circumstances have hindered this development. In analysing the final communiqué of the 1974 conference, the author concludes that this conference also has not been able to find a solution to the Community crisis.

G. Pridham, "Transnational partygroups in the European Parliament", 13 J. Comm. Mark. Studies 1975, 266-279.

The forming of political parties within the European Parliament is generally regarded as a central feature of the future development of a European federal parliament. This article poses two important questions in this context:

1. What political value these parties can have in a parliament whose function is still primarily advisory?
2. How far can these parties be compared with national political parties?

### 3. Court of Justice

A. Barav, "Considérations sur la spécificité du recours en carence en droit communautaire", 11 R.T.D.E. 1973, 53-71.

P. Gilsdorf, "Die Haftung der Gemeinschaft aus normativen Handeln auf dem Hintergrund der Rechtsprechung der Europäischen Gerichtshof", 10 EuR 1975, 73-113.

P. E. Goose, "Neuere Entwicklungen im Verfahrensrecht des Gerichtshofs", 10 EuR. 1975, 230-243.

H. Johannes, "Zum Kaffee Hag Urteil des Gerichtshofs der Europäischen Gemeinschaften", G.R.U.R. Int. 1975, 111-117.

J. Mertens de Wilmaars, "Procedurale aspecten van het prejudicieel beroep", 23 S.E.W. 1975, 78-98.

G. Püttner, "Der Schutz wohlervorbener Rechte im Gemeinschaftsrecht". 10 EuR. 1975, 218-229.

The author investigates the case-law of the Court of Justice with regard to the protection of acquired rights, and in particular in the case of unlawful administrative acts.

H. G. Schermers, "The law as it stands on the appeal for damages (Article 215(2) EEC)", L.I.E.I. 1975/1, 113-141.

Court of Justice Case no. 17/74, *Transocean Marine Paint v. Commission*, 23-10-74, with note by J. Temple Lang, 11 C.D.E. 1975, 280-292.

Court of Justice Case no. 41/74, *van Duyn v. Home Office*, 4-12-74; and Case no. 67/74 *Bonsignore v. Oberstadtdirektor Köln*, 26-2-75, with note by C. Tomuschat, 11 C.D.E. 1975, 292-310.

Court of Justice Case no. 2/74, *Reyners v. Belgian State*, 26-6-74, with comment by G. Nicolaysen, 10 EuR. 1975, 129-134.

Court of Justice, Case no. 192/73, *Van Zuylen Frères v. Hag A.G.*, with comment by D. C. Maday, 10 EuR. 1975, 134-142.

### 5. Relationship between Community Law and National Law

A. Barav, "Le commissaire du gouvernement près le Conseil d'Etat français et l'avocat général près la Cour de Justice des Communautés européennes", 26 Rev.int.dr.comp., 1974, 809-827.

P. Dagtoglou, "Der englische Richter und das Gemeinschaftsrecht: Ein Rückblick auf die ersten zwei Jahre britischer Mitgliedschaft (1973 und 1974)", 10 EuR. 1975, 247-266.

This article contains in particular a discussion of the approach to Article 177 by the British courts.

I. Davidson, "Sovereignty in the E.E.C.: The case of France", no. 259 *The Round Table* 1975, 235-243.

G. Fanico, "Adaptation and conflict between Italian law and Community law", 15 Rev.Dir.Eur. 1975, 15-35.

R. Riegel, "Zum Verhältnis zwischen gemeinschaftsrechtlicher und innerstaatlicher Gerichtsbarkeit", 28 N.J.W. 1975, 1049-1057.

An investigation of the relationship between the Community judges and the national judges with particular reference to the action for damages, the interpretation of Regulation 17, Article 9(3), and the preliminary rulings procedure. Particularly interesting is that part of the article devoted to the question of direct effects, especially with regard to directives and decisions addressed to member States. The author is of the opinion that even those provisions in these acts which do not produce direct effects should, after the expiration of an eventual time limit, be enforced by the national courts, so that conflicting national law may not be applied.

D. Sugarman, "Britain and the European Economic Community", 10 *Texas International Law Journal* 1975, no. 2, 279-320.

J. Taylor, "British membership of the European Communities: The question of parliamentary sovereignty", 10 *Government and Opposition* 1975, 278-293.

Franz Zehetner, "Zum Vorlagerecht nationaler Gerichte an den Gerichtshof der Europäischen Gemeinschaften (Article 177 Abs. 2 EWG-Vertrag)", 10 EuR. 1975, 113-128.

This article considers the question as to when a lower court has the right to refer a question of Community Law to the Court of Justice. The author discusses this problem from the standpoint of the principle of the unity of Community Law, and on this basis seeks a solution to the questions e.g. as to what is a "national court or tribunal", when an appeal against a decision to refer is possible, and as to whether the lower courts are bound by the interpretation of Community Law made by a higher court.

### 6. Accession

R. J. Harrison, "La renégociation anglaise et le Référendum du 5 juin", 1975, R.M.C. no. 185, 195-202.

J. J. Holst, "Norway's EEC referendum: Lessons and implications", 31 *The World Today*, 1975, 114-120.

J. Pinder, "Renegotiation: Britain's costly lesson?", 51 *International Affairs*, 1975, 153-166.

G. Smith, "The referendum and political change", 10 *Government and Opposition*, 1975, 294-305.

E. Wright, "The British referendum: The constitutional significance", 56 *The Parliamentary* 1975, 151-159.

### 7. Association

G. Cheysson, "Europe and the Third World after Lomé", 31 *The World Today*, 1975, 232-240.

H. B. Krohn, "Das Abkommen von Lomé zwischen der Europäischen Gemeinschaft und den AKP-Staaten. Eine neue Phase der EG-Entwicklungshilfepolitik", 30 *E.A.* 1975, 177-189.

H. B. Krohn, "La Convention de Lomé entre la Communauté européenne et les pays ACP: Une étape importante dans les relations entre la Communauté et les pays en voie de développement", 1975 *R.M.C.* no. 183, 101-108.

N. Mousisis, "L'évolution économique de la Grèce depuis son association à la C.E.E.", 1975 *R.M.C.* no. 168, 258-268.

## C. EUROPEAN ECONOMIC COMMUNITY

### 3. Agriculture

M. Broders, "La crise du marché de la viande bovine, origines et perspectives d'avenir", 1975 *R.M.C.* no. 185, 203-220.

A thorough analysis with a great deal of statistical material of the present crisis of the beef market in the European Communities, with suggestions as to solutions to this crisis.

Ian Smith, "Sugar markets in disarray", 9 *J.W.T.L.* 1975, 41-63.

### 4. Free movement of persons; establishment and services

Ch. Gavalda, "La libération de l'établissement et des prestations de services bancaires dans la CEE", 10 *R.T.D.E.* 1974, 695-708.

This article commences with a sketch of the situation regarding freedom of establishment and to provide services in the banking sector, and proceeds to a discussion, particularly with regard to France, of the effects of the Council directive of June 28, 1973, regarding these freedoms with respect to non-salaried activities in banks and other financial institutions. In spite of its limited scope of application, this directive may have a greater influence on the European banking sector than is admitted by some sceptics.

K. Winkel, "Der Ausbau der Freizügigkeit des Marktbürgers durch die Rechtsprechung des Europäischen Gerichtshofs", 28 N.J.W. 1975, 1057-1061.

### 7. Competition

L. Focsaneanu, "La jurisprudence de la Cour de Justice des Communautés européennes en matière de concurrence (art. 85 et 86 du Traité de Rome), 1975 R.M.C. no. 184, 158-163; no. 185, 221-234; no. 186, 270-284.

T. Jones, "Droit antitrust américain et droit européen de la concurrence: Étude comparative", 1975 R.M.C. no. 181, 20-33.

H. G. Koppensteiner, "International enterprises under the antitrust law of the European Economic Community", 9 J.W.T.L., 1975, 287-318.

D. Thompson, "The competition policy of the European Community", 9 J.W.T.L. 1975, 63-79.

W. Vaughn, "Transnational policy program networks in the European Community: the example of European competition policy", 11 J. Comm. Mark. Studies, 1972/73, 36-60.

### 8. Taxation

H. Simonet, "Tax harmonisation and the Economic and Monetary Union", *Intertax* 1975-2, 40-46.

### 10. Economic and monetary policy

30 *Aussenwirtschaft* 1975, Heft I.

This edition is almost entirely devoted to the theme "The fight against inflation and European integration". After an introduction by R. Barre, P. van Bempt and C. Sommaruga discuss the problem of inflation in the context of the European Community and EFTA. Finally, two extreme cases, Italy and Germany, are compared by G. Pannocini and M. Lahnstein respectively.

C. W. M. van Ballegooijen, "De rekeneenheden van de Europese Gemeenschappen", 23 S.E.W. 1975, 99-113.

Also published in 22 *Netherlands International Law Review* 1975, 51-69, under the title: "The Units of Account in Eurobonds".

R. Helkmann, "Probleme einer solidarischen Wirtschafts- und Währungspolitik der EG. Die Suche nach einem Koordinierungsinstrument", 30 E.A. 1975, 69-75.

E. S. Kirschen, "The American external seigniorage: Origin, cost to Europe and possible defenses", 5 *European Economic Review*, 1974, 355-378.

"External seigniorage" is the advantage enjoyed by a country which can impose the use of its currency on other, apparently independent, countries. This has been the case with the U.S. since 1960. Thus the EC countries were obliged to accept short-term interest on their 20 bill. dollar reserves, whereas in fact it amounts to long-term loans to the U.S. The loss of interest for the period 1970-72 amounts to almost 10 bill. dollars. The only remedy is the creation of a Community currency.

R. W. Russell, "L'engrenage collégial style and the crisis syndrome: Lessons from monetary policy in the European Community", 13 J. Comm. Mark. Studies 1975, 61-87.

D. Strasser, "Exécution des budgets des Communautés européennes (première partie), Les pouvoirs de la Commission et leurs limites", 1975 R.M.C. no. 185, 235-242.

An analysis of the executive power of the Commission with regard to the general EC budget, the "operational" ECSC budget (for intervention purposes), the European Development Fund and the resources of the Community. Finally, there is a discussion of the limits to this power imposed by the Council, the member States and the *ad hoc* committees.

P. VerLoren van Themaat, "Wirtschaftspolitische und rechtspolitische Aspekte einer Währungsunion mit unbefristeter Uebergangszeit", 10 EuR. 1975, 20-44.

The first part of this article discusses the notion of an EMu and of the necessity for its realisation. The second part investigates certain consequences in terms of legal policy, such as the distinction between the concepts of *Dauerordnung* and *Prozesslenkung*, and the usefulness of such concepts in the realisation of the EMU; and also discusses the repartition of competences between the Community institutions and the member States. Finally, there is an investigation of the available legal instruments.

M. Zuleeg, "Die Währungspolitik im Lichte der Rechtsprechung des Europäischen Gerichtshof", 10 EuR. 1975, 196-218.

#### 11. Regional Policy

P. Romus, "La création du Fonds européen de développement régional: Début de la politique régionale européenne?", 1975 R.M.C. no. 184, 149-153.

L. van Depoele, "Het Europees Fonds voor regionale ontwikkeling", 23 S.E.W. 1975, 387-395.

#### 12. Energy

J. Carrié, "Les incidents de la crise énergétique sur l'économie de l'Europe et les Etats-Unis", 40 *Politique Etrangère* 1975, 85-99.

C. A. Ehrhardt, "Europa und Energiepolitik auf Chefebene", 26 *Aussenpolitik* 1975, 3-17.

V. Emmerich, "'Wettbewerbsordnung' für den europäischen Energiemarkt?", 21 *Recht der Internationalen Wirtschaft/A.W.D.* 1975, 8-14.

H. Simonet, "Energy and the future of Europe", 53 *Foreign Affairs* 1975, 450-464.

#### 13. Commercial policy

R. Bieber, "Ansätze für ein europäisches Seehandelsrecht", 21 *Recht der Internationalen Wirtschaft* 1975, 73-78.

Certain initiatives on the part of the European Parliament and a recent decision of the Court of Justice (Case no. 167/73) have brought the notion of a common law regarding sea trade back into discussion. Certain activities in the framework of UNCTAD, and certain legislative initiatives in this respect in the Netherlands and

France call for a common Community stance. The author investigates the possibility of the French and Dutch initiatives preparing the way for similar Community initiatives.

F. F. Gundersen, "Die staatliche Handelsmonopole und die EWG", 139 Z.H.R. 1975, 1-19.

A thorough analysis of Article 37 EEC with reference to practice. Particularly interesting are the Nordic examples, which are considered also in the context of the treaties concluded by Norway with the European Communities.

#### 16. *Company law—Bankruptcy law*

"Le statut des sociétés anonymes européennes", 18 *Les Annales du Marché Commun* 1975, no. 3, 18-23.

M. Lutter, "Die Entwicklung des Gesellschaftsrechts in Europa", 10 EuR. 1975, 44-73.

The first part of this article is devoted to a thorough discussion of the technique of harmonisation in the area of company law. With reference to examples, such as the right of co-management, the author shows that the objectives of the harmonisation go far beyond the protection of participants and third parties such as is foreseen in Article 54(3)g EEC. The second part analyses the specific problems which have arisen with regard to the directives regarding the capital, merger and structure of companies. The article is supplemented by a lengthy bibliography.

S. Suckow, "The European prospectus", 23 A.J.C.L. 1975, 50-68.

Discussion of the proposal for a directive, submitted by the Commission in September 1972, regarding the creation of a standard type of company prospectus for the member States.

#### 17. *Recognition of Judgments*

L. S. Bartlett, "Full faith and credit comes to the Common Market: An analysis of the provisions of the Convention on jurisdiction and enforcement of judgments in civil and commercial matters", 24 I.C.L.Q. 1975, 44-60.

R. Geimer, "Einige Zweifelfragen zur Abgrenzung nach dem EWG Uebereinkommen vom 27.9.68", 21 *Recht der Internationalen Wirtschaft/AWD* 1975, 81-87.

This article discusses certain problems which arise from the point of view of German law with regard to the Convention of 1968 regarding the jurisdiction and enforcement of judgments in civil and commercial matters.

P. Jénard, "La Convention concernant la compétence judiciaire et l'exécution des décisions en matière civile et commerciale: Lignes directrices", 11 R.T.D.E. 1975, 14-23.

11 R.T.D.E. 1975.

Almost the whole of this issue is devoted to articles on the subject of the Convention of 27.9.68 on jurisdiction and enforcement of judgments in civil and commercial matters. Articles by P. Jénard, M. Weser, P. Bellet and W. M. Hanschild derive from reports made at a colloquium organised in Brussels on the subject of the treaties which have been concluded between the EEC member States within the framework of Article 220 EEC.



R. A. Schütze, "Die Berücksichtigung der Rechtshängigkeit eines ausländischen Verfahrens nach dem EWG-Uebereinkommen über die gerichtliche Zuständigkeit und die Vollstreckung gerichtlicher Entscheidungen", 21 *Recht der Internationalen Wirtschaft/ AWD*, 1975, 78-80.

18. *Industrial property*

Court of Justice, Case no. 15/74, and 16/74 *Centrafarm*, with note by B. Baardman, 23 *S.E.W.* 1975, 191-212.

H. Johannes, "Zum 'Kaffee Hag' Urteil des Gerichtshofes der Europäischen Gemeinschaften", *G.R.U.R. Int.* 1975, 111-118.

F. A. Mann, "Industrial property and the E.E.C. Treaty", 24 *I.C.L.Q.*, 31-43.

E. Pakuscher, "Nichtigkeits- und Vorletzungsprozess im deutschen und europäischen Patentrecht", 21 *Recht der Internationalen Wirtschaft* 1975, 305-316.

The author, president of the *Bundespatentgericht*, considers that a European patents court must be created in order to provide a centralised and uniform legal protection of patents. This court should then be empowered to deal with nullity and violation actions. The German patent law should in the meantime be changed so that there is a single procedure for both nullity and violation actions.

I. Schwartz, "Zur Politik der Europäischen Kommission im Hinblick auf eine Europa-Marke", *G.R.U.R. Int.* 1975, 71-73.

B. Schwab, "Der freie Verkehr von Markenwaren im Lichte der Rechtsprechung des Gerichtshofes der Europäischen Gemeinschaften", *G.R.U.R. Int.* 1975, 73-78.

The author deals in particular with the HAG judgment. He does not agree with those writers who consider that this judgment, and also the *Centrafarm* judgment, are applicable also to trademarks which do not have a common origin. The Court of Justice is not able to go further than these two judgments, and it should also be borne in mind that the HAG judgment concerned a very exceptional state of affairs.

19. *External relations*

M. R. Behnam, "Development and structure of the generalized system of preferences", 9 *J.W.T.L.* 1975, 442-458.

J. A. Sicco, "The Atlantic alliance and the Arab challenge: The European perspective", 137 *World Affairs* 1975, 303-326.

L. Hurwitz, "The EEC in the United Nations. The voting behaviour of eight countries, 1948-1973", 13 *J. Comm. Mark. Studies* 1975, 224-243.

J. Klein, "L'Europe et les relations transatlantiques à l'heure de la négociation", 40 *Politique Etrangère* 1975, 59-85.

G. Marengo, "Bases juridiques communautaires de l'aide alimentaire aux pays en voie de développement", 10 *C.D.E.* 1975, 623-649.

E. Noël, "The external relations of the EEC and its internal problems", 10 *Government and Opposition* 1975, 159-166.

G. Pleuger, "Die Beziehungen zwischen der Europäischen Gemeinschaft und Kanada. Eine "special relationship"?", 30 *E.A.* 1975, 269-276.

20. *Environment policy*

B. J. Douwes, "Water als object van milieubeleid in de Europese Gemeenschappen", 23 *S.E.W.* 1975, 308-331.

VI. *COUNCIL OF EUROPE*

A. *General*

H. Winnik, "Chronique du Conseil de l'Europe", 17 *Les Problèmes de l'Europe* 1974, no. 66, 65-70.

B. *Human Rights*

R. Goy, "La ratification par la France de la Convention européenne des droits de l'homme", 22 *Netherlands International Law Review* 1975, 31-51.

Y. Coussirat-Coustère, "La réserve française à l'article 15 de la Convention européenne des droits de l'homme", 102 *Journ.dr.intern.* 1975, 269-293.