
BOOK REVIEW

CHRONIQUE BIBLIOGRAPHIQUE

Dominik Lasok & John W. Bridge, *Law and Institutions of the European Communities*, 4th ed. London: Butterworths, 1987. Pp. lxxvi, 513 [\$77.00].
Reviewed by Frederik Harhoff*

When this book first appeared in 1972, it was considered to be among the best of the relatively few instruments in English for the teaching of European Community Law following the United Kingdom's accession to the EEC. Since then, a number of other outstanding introductions to the legal system of the EEC have been published in English, not only by European authors, but also by Americans.¹ Lasok's and Bridge's book, which has concurrently been revised and has now appeared in its fourth edition, is still one of the leading comprehensive textbooks in English on this subject. In its preface, the authors state that this revised and enlarged edition, "[l]ike the previous editions ... is devoted to the structure of the Institutions and the Principles of Community Law with the necessary emphasis on the constitutional aspects and the relationship between the Community, international law and national law of the Member States. It differs from the previous editions in so far as the introductory chapters designed to familiarise the British lawyer with this new phenomenon have been reduced in volume, whilst chapters 13 and 14 devoted to the Economic Law of the Communities have been enlarged, not only to reflect the growth in that area but also to serve the teaching Institutions in which the Constitutional and the Economic Law of the Communities are offered in one integrated course."²

As its preceding version, this edition is divided into four parts.

Part one is entitled "The Nature of the European Communities and of Community Law" and relates to the history of the Communities and their legal status, including the nature and sources of Community Law.

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¹E.g. H. Smit & P.E. Herzog, *The Law of the European Economic Community — A Commentary on the EEC-Treaty*, 6 vols (New York: Mathew Bender, 1976); E. Stein et al., *European Community Law and Institutions in Perspective: Text, Cases and Readings* (New York: Bobbs-Merrill, 1976). See also, for other European authors, P.S.R.F. Mathijsen, *A Guide to European Community Law*, 4th ed. (London: Sweet & Maxwell, 1985).

²D. Lasok & J.W. Bridge, *Law and Institutions of the European Communities*, 4th ed. (London: Butterworths, 1987) at v.

Part two, "The Law of the Institutions", offers a comprehensive description of the institutional structure of the Communities, notably the Commission, the Council, the European Parliament and the Court of Justice. In addition, a chapter is assigned to introducing the ancillary Community institutions, such as the Economic and Social Committee and the Court of Auditors, among others.

Part three, "The Relationship between Community Law and the Municipal Law of the Member States", deals with the implementation and enforcement of Community Law in national law. Chapter 12 is in particular devoted to the relationship between EEC Law and the law of the United Kingdom. Finally, part four is devoted to "The Law of the Economy" of the EEC. Thus, Chapter 13 deals with the Common Market and the "Four Freedoms", i.e. the free movement of goods, persons, capital and services within the entire Community territory. Chapter 14 presents the various Community Policies and is subdivided into a description on the one hand of policies that are laid down directly in the Treaty of Rome, especially the Agricultural Policy and the Competition Policy, and on the other hand of new policies that have been created out of necessity within the framework of the Treaty, notably those in the fields of energy, environment, consumer standards, industry, science and technology, and education and culture.

Each chapter is elaborately and richly annotated with references to the decisions of the European Court of Justice, and an appendix provides extensive lists of further reading for each chapter. The index is also well-structured and easily accessible with relevant key words. In the beginning of the book, the reader will find highly useful tables of statutes, European Communities legislation, conventions and other enactments and, last but not least, an impressive list of cases from the European Court of Justice. These additional tools make this book a precious resource in both the study and the teaching of EEC Law. In general, the book is well written and deserves attention as an intelligible presentation and one of the most comprehensible textbooks in a complex field. After all, thirty years of economic and political integration among six to twelve Member States within practically every important area of legislation has generated legal structures of ever increasing complexity; writing a well structured introduction to EEC Law is no doubt a very comprehensive task, which the authors have handled admirably in this case. It provides both basic knowledge and precise facts of the European Communities while at the same time escaping the banal and cheerless enumerative descriptions of many ordinary introductions.

The title of the fourth edition (unlike the preceding edition) no longer appears as a mere "Introduction" to EEC Law, but is now entitled boldly: "Law and Institutions of the European Communities". It is difficult to see a justification for this, since the book is still — for very good reasons and

notwithstanding its qualities — an introduction having much the same structure and content as before.

In particular for Canadian students, the deletion of the bilingual (French-English) “EEC-legal vocabulary” in Chapter 3 of the new edition is unfortunate. Since the Official Journal is most widely available in these two languages it would be convenient to have a list of common expressions in both languages at hand. The authors approach the subject with a common law perspective which is a great advantage for readers of that same background, but this approach creates methodological problems and impairs clarity at times. For instance, the discussion of the concept of “direct applicability” (or “direct effect”)³ of EEC Treaty provisions and directives (the latter of which, originally and in principle, are *not* directly applicable, but on which the Court of Justice has conferred direct effect under certain conditions) is not adequate from a civil law point of view.

First, the concept of “direct applicability” or “direct effect” for provisions binding only Member States is not merely “derived from the monist concept of international law and the self-executing nature of certain Treaties”,⁴ but could rather be understood as a device employed by the Court to circumvent limitations in the implementation of EEC Law caused by the reluctance of Member States to cede in practice the sovereignty that they have already given up in law. This, of course, poses profound questions as to the character of regulations and directives respectively, and in fact challenges the coherence of the system of legal sources in the Community.

Secondly, the conditions under which the Court of Justice has conferred “direct effect” to provisions addressed only to Member States are not illuminated very clearly in the book. They are of course important to the understanding of this problem.

Thirdly, the concept of “direct applicability” (or “direct effect”) is not treated in such a way as to leave the average reader with a clear understanding of why individual obligations can very well be created by directly applicable Treaty provisions, but not by directly applicable provisions in a directive.

For most civil law jurisdictions in Europe, the concept of “direct applicability” of particular provisions in the Treaty and in certain directives does present complicated legal problems, which contrast with the pragmatic law-making process of common law systems.

³*Ibid.* at 301ff.

⁴*Ibid.* at 302.

A similar kind of observation could be addressed to the book's treatment of the supremacy of EEC Law as against the national law of the Member States. The authors state that the supremacy of Community Law is "the logical consequence of the federal concept of the Community", and yet at the same time "can be deduced from the Member-States' constitutional law."⁵ Not many of the European constitutions, however, have been designed to allow for an eternal surrender of the last word on any given legal conflict between Community Law and municipal law. The authors' analysis may thus eventually gloss over the deep complexity of the political and constitutional problems that at least some member countries have faced by reason of their accession to the European Communities.

Clearly, this book should be read together with Lasok's other work *The Law of the Economy in the European Communities*⁶ in order to gain an image of the full scope of EEC Law; the last part of the work under review here therefore deals with "The Law of the Economy" so as to at least introduce this important part of Community Law to the reader who abstains from acquiring Lasok's second book. However, this part remains only an introduction to the subject. The free movement of goods and persons,⁷ and in particular the competition policy⁸ are treated in a very cursory manner that leaves the reader with only a vague impression of the content and the vast importance and implications of these parts of the Treaty. Of course, this is a conscious choice, which the authors have made under the spatial constraints of a general work. On the other hand, one could certainly question the expediency of this choice, since it seems as if the authors have fallen between two chairs. It would perhaps have been best either to give a detailed account of the background and the substance of these parts of the Treaty and explain properly the extent of the rules and the conditions for their application, or refer to such an account elsewhere. At least in university teaching, it is an unsatisfactory basis for what is by most students considered the most interesting parts of EEC Law.

This brings forth the last observation, namely the price of the book. Of course, the authors have no control over the publisher's pricing

⁵*Ibid.* at 150.

⁶(London: Butterworths, 1980).

⁷*Treaty establishing EEC*, 25 March 1957, 298 U.N.T.S. 3, arts 30-36 and 48-50 [hereinafter the Treaty of Rome].

⁸*Ibid.*, arts 85-90.

policy, but the cost almost prohibits the use of this book in university teaching because it ranges not only beyond the financial capacity of most students, but also beyond the price of comparable books printed by other publishers for university teaching purposes.
