

A. ALBI / J. ZILLER, *The European Constitution and National Constitutions: Ratification and Beyond*, Kluwer, 2007, 308 pp., ISBN: 90-411-2524-8

The ratification of an EU Constitution raises questions of fundamental importance from the point of view of notional constitutional law. In spite of the traditional link between constitutions and states, recent theories such as post-national recognize the possibility for a constitution to exist in a non-state context.

Many other issues are treated by the authors. As a matter of fact, the book includes reports from 17 EU Member States, which consider points such as:

- The process and legal framework of ratification in each of the Member States;
- The novel category of constitutional treaty;
- Ratification referendum.

This book contributes to the emergence of a true European-wide constitutional debate.

M. Perrachon

N.-L. AROLD, *The Legal Culture of the European Court of Human Rights*, The Raoul Wallenberg Institute Human Rights Library, 29, Martinus Nijhoff Publishers, 2007, X, 214 pp., ISBN: 978-90-04-16067-5

While the supervision of the European Court of Human Rights constantly grows in importance, little is known about the people, especially the judges, inside the Court. To what extent are human rights sensitive to different traditions and is their work burdened through the plurality of legal, historical-political or vocational experiences among the judges? Looking at the first three years of permanent operation of the Court, this book suggests that it is the legal culture that brings the judges together. Based on interviews, field study observations and an analysis of case law, this book takes a novel approach on European human rights law and provides researchers and practitioners with an important basis for a full understanding of the Strasbourg case law.

This book combines an illustrative set of interviews and a detailed analysis of voting behaviour. It fills in a need for the study of the operation of human rights law in a transnational setting and gives a fair account of the leading tendencies inside the European Court of Human Rights.

M. Aruta

C. BARNARD (ed.), *The Fundamentals of EU Law Revisited - Accessing the Impact of Constitutional Debate*, Oxford University Press, 2007, 299 pp., ISBN: 978-0-19-922621-4

With the rejection of the Constitutional Treaty in the French and Dutch referenda, the European Union received a severe blow that precipitated a period of reflection and soul searching. How far should the fundamental principles that shape the Union be re-assessed in the light of the constitutional debate? Can the Constitutional Treaty be rescued from failure? If not, what other options for constitutional reform are available? Does the Treaty's rejection signal the failure of the Union's goal of democratic governance?

The essays in this book examine the impact of the debate surrounding the future of the European Constitution on the development of core areas of EU law and policy. Starting with a discussion of the shifting conceptions of European democracy, the book proceeds to look at key areas of substantive law against the backdrop of the Constitutional Treaty, from Foreign Relations to Fundamental Rights, and from Social Policy to Justice and Home Affairs. The book concludes with an examination of potential solutions to the constitutional crisis, and models for future constitutional reform.

The essays in this book offer a broad overview of the future development of EU law and policy in the light of the debate surrounding the Constitutional Treaty. It includes an examination of the possibilities for future constitutional change in the EU, offering potential solutions to the rejection of the Constitutional Treaty. Furthermore, it examines the evolution of the idea of a 'democratic Europe', and the potential for democratic reform of the EU's institutions.

B. Emanuel

C. BERTEL / K. SCHWAIGHOFER, *Österreichisches Strafrecht Besonderer Teil I §§ 75 bis 168b StGB*, Springer, Wien/New York, 2008, 267 pp., ISBN: 978-3-211-74135-1

The necessary changes needed in the previous volume are considered in this new edition. The latest case law is incorporated; the practical man will be able to find interesting decisions; the newest literature is considered; all relevant theories are discussed. General explanations and examples from the jurisdiction alternate each other. Thus the theories become understandable, the text descriptive and the reader can see the latest development of the jurisdiction.

The present volume wants to address above all students. It describes the main part of the Penal Code in a form easily readable also by beginners; it covers the crimes against life and limb (physical soundness), liberty, honor. Its easy comprehensibility makes, however, this textbook also suitable for all those who must deal in their daily work again and again with criminal aspects.

S. Van Maris

S. DULLINGER, *Bürgerliches Recht II Schuldrecht Allgemeiner Teil*, 3rd ed., Springer, Wien/New York, 2007, 169 pp., ISBN: 978-3-211-73838-2

The ABGB refers to the law of contract as "Personal Rights" and defines it in § 859 by means of which a person having another obligation is connected. The law of contract as a legal area encloses all those rules for at least several kinds of obligations which are generally part of the law of contract. In the new edition all relevant changes of law are trained, in assignment right and the commercial law of change.

Also in this 3rd updated new edition the author maintains the proven equity approaching the learning and testing material. Knowledge is delivered briefly and concisely, but nevertheless in a descriptive and clear way. Numerous cross-references between the different chapters and on the other volumes of the text book promote the understanding for connections.

S. Van Maris

M. FAURE / A. VERHEIJ (eds.), *Shifts in Compensation for Environmental Damage*, Tort and Insurance Law Vol. 21, Springer, Wien/New York, 2007, XII, 338 pp., ISBN: 978-3-211-71551-2

The book is about the compensation of environmental damage and the effects it is having on preventing disaster. The various shifts dealt with in this book are about the burden of paying for the environmental damage: Should the government pay by using public money or the polluter must carry the responsibility? This remains an ambitious task and the authors' point of view is in the direction of the principle that the damage must be paid by the ones who caused the damage.

The book also pays attention to the private law, public law, public funding and international governance in cases where it is difficult to identify the main polluter. Insurance companies were complaining about compensating victims of polluters due to the process involved. The various shifts have still not solved the major problem of compensation and liability

through private and public law. The authors concluded by dealing with the issue of the book through their own contribution within this framework.

B. Dainkeh

M. FAURE / W. H. VAN BOOM (eds.), *Shifts in Compensation between Private and Public Systems*, Tort and Insurance Law Vol. 22, Springer, Wien/New York, 2007, VII, 246 pp., ISBN: 978-3-211-71553-6

Perché alcuni sistemi giuridici hanno abbandonato la responsabilità civile in alcune aree e l'hanno sostituita con una qualche forma di sistema di indennizzo o responsabilità oggettiva senza responsabilità? Quali sono stati gli effetti? Come dobbiamo valutare questi cambiamenti? Perché non sono stati adottati in altri paesi?

Tali questioni sono state al centro del "Cambiamento nel Risarcimento", progetto di ricerca di cui questo è il volume finale, affrontando, da un lato, le questioni relative ai 'cambiamenti' dei sistemi di compensazione ad un livello più generale, e dall'altro, esaminando i cambiamenti in altri ambiti.

I documenti che esaminano i cambiamenti a livello più generale forniscono un quadro di riferimento per l'analisi dei vari cambiamenti e spiegano la svolta verso un uso crescente di regimi di responsabilità oggettiva e senza colpa. Si valuta inoltre in quale misura i cambiamenti nella compensazione possono essere spiegati dai nuovi mercati assicurativi e dalla loro relativa flessibilità. Inoltre, sono anche esaminati cambiamenti nei settori specifici di incidenti e problemi medici.

Questo libro riunisce giuristi ed economisti provenienti da vari campi, fornendo così un approccio multidisciplinare alla responsabilità civile e strumenti alternativi.

M. Aruta

L. FAVOREU / P. GAÏA / R. GHEVONTIAN / J.-L. MESTRE / O. PFERSMANN / A. ROUX / G. SCOFFONI, *Droit constitutionnel*, Dalloz, ISBN: 978-2-247-07492-1

Ce livre est conçu pour permettre aux étudiants de première année de droit de suivre les deux semestres d'enseignement de droit constitutionnel. Il intéresse aussi ceux de licence, en traitant pour la première fois du "droit constitutionnel des libertés", et sera utile aux candidats à l'examen d'entrée aux concours de la fonction publique. Les praticiens ne manqueront pas aussi de l'utiliser en relation avec les *Grandes décisions du Conseil constitutionnel*, son complément indispensable. Cette 10^e édition a été mise à

jour et enrichie; de nombreux passages ont été modifiés ou refondus notamment pour tenir compte des révisions constitutionnelles.

Ainsi salué par deux des principales revues françaises de droit public, l'ouvrage a été présenté - ce qui est exceptionnel pour un manuel étranger - par *Harvard Law Review* (mai 1999) et par trois autres grandes revues étrangères: la *Rivista di Diritto costituzionale*, la *Revista española de derecho constitucional* et la *Revue belge de droit constitutionnel*.

Sept auteurs - membres du Groupe d'études et de recherche sur la justice constitutionnelle (CNRS) - ont uni leurs efforts, sous la direction de Louis Favoreu, pour rédiger un manuel de droit constitutionnel d'un type nouveau.

M. Aruta

E. FISHER, *Risk Regulation and Administrative Constitutionalism*, Hart Publishing, Oxford and Portland, Oregon, 2007, 290 pp., ISBN: 978-1-84113-033-0

The regulatory evaluation of environmental and public health risks has been one of the most legally controversial areas of contemporary governmental activity. Much of that debate has been understood as a conflict between those promoting 'scientific' approaches to risk evaluation and those promoting 'democratic' approaches. This characterization of disputes has ignored the central roles of public administration and law in technological risk evaluation. This is problematic because legal disputes over risk evaluation are disputes over administrative constitutionalism. Thus, they are disputes over what role law should play in continuing and limiting the power of administrative risk regulators. This is shown by five case studies taken from five different legal cultures: an analysis of the bifurcated role of the Southwood Working Party in the UK BSE crisis; the development of doctrines in relation to judicial review of risk evaluation in the US in the 1970s; the interpretation of the precautionary principle by environmental courts and generalists tribunals carrying out merits review in Australia; the interpretation of the World Trade Organization Sanitary and Phytosanitary Agreement as part of the WTO dispute settlement process; and the interpretation of the precautionary principle in the EU context.

K. Nastechko

J. FISCHERLEHNER, *Die abgekürzten Verfahren im Verwaltungsstrafrecht*, Springer, Wien/New York, 2008, 202 pp., ISBN: 978-3-211-73911-2

La forma abbreviata del Codice di procedura penale è stata concepita per la pratica di una parte essenziale dell'amministrazione penale. Soprattutto nel settore dei trasporti in §§ 47 e segg. vi sono procedure esecutive standardizzate indispensabili. Gli atti amministrativi, ma anche quelli penali, sono ora principalmente sotto forma di una procedura abbreviata. Tuttavia, questa parte del Codice di procedura penale è stata trattata ben poco nella letteratura.

Il presente libro offre una panoramica completa sulle istituzioni penali. In particolare è stato posto l'accento sulla differenza tra criminale e penale fino alla concezione di Anonimo inserita molto più tardi nel Codice. Oltre alla presentazione della giurisprudenza e della letteratura esistente, l'autore tratta di problemi del tutto nuovi e di possibili soluzioni ad uso della teoria e della pratica.

M. Aruta

E. GITSCHTHALER / J. HÖLLWERTH (Hrsg.), *EheG Ehegesetz Kommentar (f. Österreich)*, Springer, Wien/New York, 2008, 899 pp., ISBN: 978-3-211-23828-8

The well-known series of short comments published by Springer provides the comments written by the two judges Gitschthaler and Höllwerth about marriage law. Family law took an enormous upswing during the last years. This shows not only a new approach of different relevant technical periodicals, but also a variety of sub ranges, for example common property, women rights, etc., that are publishing their own works. Despite the broad range of information, on approximately 800 pages, the book provides useful and handy comments, which are adjusted to the needs of everyday practical use.

This comment appears in the Austrian marriage law for the first time in the well-known stick "short comments" (*EheG*). Together with the judges Edwin Gitschthaler and Johann Höllwerth (highest Court of Justice, Vienna) further authors are Susanne Beck (Judge, district court Döbling), Ulrike Aichhorn (Professor at the University of Salzburg) and Astrid Deixler Hübner (Professor at the University of Linz). They describe the marriage right from the classical sense until the social security-legal monitoring rules. They offer a comprehensive overview of the judiciary and technical literature. Thereby the proven combination of scientific require-

ment and practical use is the core of this study. The clear table of contents and the detailed index facilitate the practical handling.

S. Van Maris

G. GOODWIN-GILL / J. MCADAM, *The Refugee in International Law*, Oxford University Press, Oxford, 2007, 600 pp., ISBN: 978-0-19-920763-3

Milioni di persone oggi sono costrette a fuggire dai luoghi in cui vivono a causa di conflitti, di discriminazione sistematica, o di altre forme del persecuzione. Gli strumenti principali su cui contare per assicurare la protezione internazionale sono la convenzione del 1951 concernente la condizione dei rifugiati ed il relativo protocollo del 1967. Questo libro, il testo principale nel campo, esamina le sfide chiave alla convenzione quali la condizione dei rifugiati, le richieste di asilo ed gli standard internazionali e nazionali di protezione.

La situazione dei rifugiati è uno dei problemi più urgenti che la comunità internazionale deve affrontare e il diritto dei rifugiati si è sviluppato negli ultimi anni divenendo argomento di importanza globale. In questa terza edizione attesa da tempo ogni capitolo è stato modificato completamente ed aggiornato ed ogni argomento, vecchio e nuovo, ha ricevuto un accurata revisione. Le caratteristiche principali dell'opera sono: studio di sfollati all'interno dei confini nazionali; cosiddetta protezione preventiva; sicurezza dei rifugiati; la situazione delle donne e dei bambini rifugiati; un esame dettagliato del ruolo del UNHCR e della situazione palestinese; e una valutazione delle possibilità di protezione (o della mancanza di) nella Convenzione europea sui diritti dell'uomo.

M. Aruta

K. INGLIS / A. OTT (ed.), *The Constitution for Europe and an Enlarging Union: Unity in Diversity?*, Europa Law Publishing, 2005, 306 pp., ISBN: 90-76871-38-8

This collection of essays by young researchers from across Europe discusses the future of an enlarging Europe and the impact of enlargement on the EU's institutions and development. Moreover, it raises important issues surrounding the future of integration in an enlarging EU.

The first chapter deals with European constitutionalism and its formulation, the second examines democratic legitimacy in today's system of multi-level governance while the third chapter deals with institutional reform within the European Union. The fourth chapter then examines the

role of national parliaments in an enlarged Union. The next five chapters deal with, in various ways, the apparent growing diversity within the Union - some of which is the indirect result of the 2004 enlargement and some of which predates that enlargement. In particular, in chapter 5 the future of 'differentiated integration' in general is tackled by Andrea Ott while Beata Dziechciarz in the following chapter examines differentiation in the monetary and economic integration. Differentiation is also dealt with in chapters 7, 8, 9 in relation to citizenship laws (in respect to Cyprus), in the Common Agricultural Policy and finally in counter-terrorism policy. The final three chapters address issues related to enlargement. Chapter 10 examines membership conditionality in relation to the current queue of membership candidates while chapter 11 deals with minority protection within the EU and lastly chapter 12 discusses the deep impact of membership conditionality on the democratization process in Turkey.

The authors attempt to make sense of the tensions between the means of deepening of the integration process and the widening out of the Union, as new members join the club. This book brings together a series of papers that cover a broad range of topics from a mostly legal perspective within the themes of constitutionalisation, differentiation and conditionality all in the context of the enlargement process of the EU.

V. Nikitas

A. KOMNINOS, *EC Private Antitrust Enforcement: Decentralised Application of EC Competition Law by National Courts*, Hart Publishing, Oxford and Portland, Oregon, 2008, 314 pp., ISBN: 9781841137445

This study examines the role of courts in the application of the EC competition rules and views that role in the broader system of antitrust enforcement, especially in the context of the recent modernisation and decentralisation of EC competition law enforcement. The author first examines the relationship between private and public enforcement and the new institutional position of national courts and their relationship with the Court of Justice, the Commission, and public enforcement in general. The author then proceeds to deal with the substantive and procedural law aspects of EC private antitrust enforcement. Also, the author describes the current post-decentralisation state of affairs but also refers to the latest proposals to enhance private antitrust enforcement in Europe both at the Community level, where reference is made to the December 2005 Commission Green Paper on Damages Actions and its aftermath, and at the na-

tional level, where reference is made to recent and forthcoming relevant initiatives.

A. Papadogiorgakis

E. PALMER, *Judicial Review, Socio-Economic Rights and the Human Rights Act*, Hart Publishing, Oxford and Portland, Oregon, 2007, 384 pp., ISBN: 978-1- 84113-372-0

The book is concerned with issues of state responsibility for the meeting of health and welfare needs in a post-welfare landscape. The contents of the book include insight into the role of courts in the protection of socio-economic rights, the regional protection of socio-economic rights, the UK Constitution and the Human Rights Act 1998, from need to 'choice' in public services - the boundaries of judicial intervention in prioritization disputes, positive obligations in the socio-economic sphere, the unequal distribution of public goods and services in the UK etc. Also, in relation to the law of UK one of the main objectives in this book is to explore the extent to which, following the Human Rights Act 1998, international rights standards might be used by the judiciary to protect the social and economic welfare rights of vulnerable citizens.

In general, the aim of this series is to provide a forum for scholarly reflection on all aspects of the law of human rights. The series is inclusive, in the sense that all perspectives in legal scholarship are welcome. Also, work which focuses on human rights law in other states will therefore be included in this series.

K. Nastechko

V. PILZ, *Die Auswärtige Ausschuss des Deutschen Bundestages und die Mitwirkung des Parlaments an der auswärtigen und internationalen Politik*, Duncker & Humblot, Berlin, 2008, 201 pp., ISBN: 978-3-428-12358-2

In former times, the foreign policy was a classical domain of the government. Today, the German *Bundestag* is participating in various ways in the organization of the foreign and international policy. The most important instrument is the foreign policy committee of the German *Bundestag*. It is a decision-making and controlling organ for the parliamentary foreign policy discussion. In formulating and organizing the foreign policy, the Federal Government is lacking the execution. The *Bundestag* has substantial questions in the handling of the foreign policy. Through the co-operation between inter-parliamentary committees and by international contacts, the parliament makes an important contribution for the democratization of

the international relations as well as creating more peace, stability and security in the world.

S. Van Maris

S. DE LA ROSA, *La méthode ouverte de coordination dans le système juridique communautaire*, Bruylant, 2008, 692 pp., ISBN: 978-2-8027-2454-4

The Open Method of Coordination (OMC), introduced officially with the strategy of Lisbon in 2000, appears to be a new instrument of the Community being different from the traditional national legislations.

This study offers an analysis mainly judiciary comparing the appeals to the OMC with the characteristics of the judiciary system of the Community. How the recourses to the OMC can match with the structural basis of the Community system? How to put it in prospect with questions as essential as the distribution for competences, Community normalcy or institutional balances? The work intends to answer these questions.

For this purpose, the book is structured around the identification of the OMC in the Community system then of its insertion in the latter. It stresses that this method was institutionalized little by little and that its operating mode is integrated in the Community system. Such an evolution makes thinking and considering the recourse to the OMC from the point of view of association with the normative components of the Community system, and particularly with the requirements of the Community of Right.

A. Papadogiorgakis

H.-P. SCHÖMMER / A. KOSMIDIS, *Internationales Erbrecht - Griechenland*, Verlag C. H. Beck, München, 2007, 300 pp., ISBN: 978 3 406 56396 6

Aufgrund der zunehmenden Internationalisierung, insbesondere der fortschreitenden Integration und Erweiterung der Europäischen Union, wächst auch die Zahl der grenzüberschreitenden Erbfälle. Mit der Liberalisierung des Kapitalsverkehr und des Erwerbs von Grundvermögen durch Ausländer wird diese Entwicklung noch weiter gefördert. Das Buch will eine praktische Orientierungshilfe den Gerichte, den rechtsberatenden Berufe so wie dem rechtsuchenden Bürger bieten.

F. Sofia

S. WEATHERILL, *Better Regulation*, Studies of the Oxford Institute of European and Comparative Law, 2007, 437 pp., ISBN: 978-1-84113-715-5

This book represents the fruit of a conference entitled 'Regulating the European Market' presented jointly by Global Law Firm Clifford Chance and the Institute of European Comparative Law in the University of Oxford.

"Better regulation" is a perfect topic for bringing together a range of approaches and drawing out a deeper insight into the current struggle to balance the demands for proper protection from harm and the fear of damning over-regulation.

These essays will foster greater understanding of UK and EU regulation the accountability issues involved, and problems of enforcement.

In the end, it can be argued that the quest for a Better Regulation is no more nor less than a quest for a Better European Union.

M. Perrachon

F. WEISS / F. WOOLDRIDGE, *Free Movement of Persons within the European Community*, 2nd edition, Kluwer Law International BV, The Netherlands, 2007, 301 pp., ISBN: 978-90-411-2545-4

This volume - a revised and updated edition of the important work first published in 2001 - provides a comprehensive, up-to-date overview of European law on the movement of persons. Its scope encompasses doctrinal basis, institutional framework, legal compliance, judicial development, and derogation on such grounds as security and health. The authors, both well-known experts in the field, comment extensively on matters including visas, free movement of workers, harmonization of professional qualifications, European citizenship, freedom to provide and receive services, agreement between the European Community and other states concerning free movement, and the rights of families and individuals to housing and education, as well as the increasingly important topic of the rights of third-country nationals.

In addition to providing analysis of the relevant provisions of the European Community Treaty as amended by subsequent treaties including the Treaties of Amsterdam and Nice, the book takes considerable account of all relevant secondary legislation and sometimes soft law, for example draft treaties, resolutions, and draft legislation. All these perspectives - legislative and judicial, at domestic, EC and international levels - are here

fully updated, with special attention to the far-reaching implications of the recent Residence Directive.

In this new edition the authors clearly articulate what has been gained in recent years, and also consider what obstacles remain and what future developments might take place in this area of Community Law. For these reasons and others, *Free Movement of Persons within the European Community*, 2nd edition, will continue to be of great value to legal practitioners, academics, and students as well as to the wider public interested in the process of European integration.

N. Kereselidze

P. WOLLENSCHLÄGER, *Die Gemeinschaftsaufsicht über die Rechtsprechung der Mitgliedstaaten*, (Schriften zum öffentlichen Recht, Bd. 1038), Duncker & Humblot, Berlin, 2006, 321 pp., ISBN: 978-3-428-12118-2

Conformemente ad un tribunale costituzionale federale, la Comunità europea è un gruppo di Stati, che esercita il potere territoriale degli Stati membri a livello comunitario. In questo caso, essa pone la legge che è stata messa in opera, per quanto possibile, da parte degli Stati membri. Per garantire l'attuazione contrattuale del diritto comunitario negli Stati membri, il compito di garantire l'applicazione giuridica del Trattato CEE (garante dei contratti) è della Commissione. Secondo l'art. 226 del Trattato la Commissione obbliga e autorizza, pertanto, di avviare l'azione per violazione del trattato nei confronti degli Stati membri.

Peter Wollenschläger esamina in questo lavoro, se la Commissione ha anche il potere di dirigere le decisioni dei giudici nazionali sulla base di una legge comunitaria. L'interesse della Comunità europea per l'attuazione contrattuale del diritto comunitario negli Stati membri, sembra di parlare a favore di un tale diritto di controllo. Tuttavia, sono da tenere in considerazione l'indipendenza delle corti e la forza di legge delle decisioni della Comunità europea in base all'art. 6 par. 2 del Trattato dell'Unione europea. Di qui la necessità di sviluppare nuovi strumenti di controllo, come per esempio "la denuncia nell'interesse della legge".

M. Aruta

K. S. ZIEGLER / D. BARANGER / A. W. BRADLEY, *Constitutionalism and the Role of Parliament*, Studies of the Oxford Institute of European and Comparative Law, Hart Publishing, Oxford, 2007, 269 pp., ISBN: 1-84113-643-1

These essays are the revised products of a conference convened by the Institute of European and Comparative Law of the University of Oxford on 24-25 September 2004.

The book aims to provide some answers to many questions such as: How should European democracies react to the new forms of executive and administrative action? Should they play a role in upholding judicial independence, although the latter is frequently seen as independence from parliament as well as the executive? How should they contribute to the protection of fundamental rights?

Moreover, the book analyses the relationship between parliament and the executive power and parliament's role and attitude regarding the judiciary with a special focus on the independence of the judiciary in a comparative perspective.

M. Perrachon