Multilingual Interpretation of European Union Law
by Mattias Derlén

For the first time in European law scholarship, Mattias Derlén provides an in-depth analysis of the actual use of multilingual interpretation of Community law in national courts. He has sifted from the (mostly recent) history of high courts (and some lower courts) in Germany, England, and Denmark some 186 judgements in which the courts diverged from reading the national language version in isolation by admitting one or more other language versions of a Community provision. In each instance he closely investigates:

- why and under what circumstances this initiative was taken;
- which and how many foreign language versions were used;
- in what way the national court gained knowledge of the meaning of the foreign language versions; and
- how the court acted when the meanings of the examined language versions deviated from each other.

Denmark, England and Germany were chosen because they represent three of the classical Western legal families – the Scandinavian (Nordic) law, the common law and the civil law traditions. In this connection, the author clearly demonstrates that the shortcomings of national courts that emerge from the study result not only from practical constraints, but also from features of legal culture and basic notions of the law in the particular jurisdictions.

Multilingual Interpretation of European Union Law offers a superb foundation for further work in an area of European law that is gathering greater significance day by day. Although it goes without saying that any scholar or student engaged in studying the multilingual aspect of European law will find this book indispensable, there is also an important place for this knowledge among academics and practitioners generally, given the pervasive effects of language and translation in interpreting Community law.

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July 2009, 446 pp., hardbound, ISBN: 9789041128539, Price: EUR 90.00 / USD 119.00 / GBP 72.00
This deeply informed and thoughtful book thoroughly examines the manner in which the principle of division of powers has developed in EU Law over the course of European integration, and casts light on the path towards a more efficient delimitation of internal competence between the main actors: namely, the European Union and the Member States. Among the topics investigated in depth are the following:

- the place of the ‘competence provisions’ in the current and future EU Treaty structure;
- the scope and limits of the powers of institutional actors involved in EU decision-making;
- the contribution of the Court of Justice in declaring the pre-emptive effect and overarching precedence of Community law;
- the role of subsidiarity as a tool for monitoring the jurisdictional limits of the Community’s legislative competence;
- areas where ‘creeping competence’ occurs;
- the constitutional checks and balances available to Member States against unprecedented expansion of EU competences; and
- the spectre of a powerful ‘core’ Europe and a ‘multi-speed’ Europe of pacesetters and laggards.

The countless perspectives and clarifications discovered along the way are sure to engage academics and policymakers working in the fields of the European integration project, and will provide ample insights and food for thought.

May 2009, hardbound, ISBN: 9789041126153, Approx. Price: EUR 120.00 / USD 158.00 / GBP 96.00

This book focuses on preventive security arrangements and precautionary measures that offer creditors the widest possible assurance of obtaining an enforceable cross border title of execution and recovering claims in the event of non-payment by the debtor – all while adhering closely to such guiding principles as efficiency, legal certainty, predictability, and the establishment of a proper balance between the interests of the claimant and the defendant. The author pays close attention to relevant factors as the following:

- the debtor’s privacy interest, the creditor’s efficiency interest, legal principles of non-discrimination, proportionality, territoriality, universality, and mutuality;
- the role of regulated enforcement and recovery agents;
- a foreign State’s immunity against civil execution measures;
- recognition and enforceability of titles of execution;
- interim measures;
- grounds of non-recognition or refusal and other obstacles to enforcement or recovery;
- periods of limitation;
- enforcement of a contested claim;
- appeals;
- costs and repayment;
- referral provisions to national laws;
- access to information for enforcement purposes in the international context;
- the possible alternative to cross border enforcement of claims, international insolvency; and
- disqualification orders for non-serious or illegal business activity.

No other work on the cross border enforcement of contractual money law claims and tax law claims in the EU has anything like the depth and breadth of this analysis.

February 2008, 400 pp., hardbound, ISBN: 9789041128614, Price: EUR 125.00 / USD 165.00 / GBP 85.00
This important new book opens with an in-depth analysis of the ‘linking factor’ test that has implicitly been developed by the European Courts for determining whether a situation is purely internal to a Member State or whether it qualifies for EC protection. There is a detailed explanation of how the Court has traditionally applied this test in its case-law (e.g. in family reunification and educational qualification cases), and of the problems emerging from the application of this test. A presentation of the Court’s formal stance on reverse discrimination is also provided. With detailed reference to the case-law of the European Community Courts (including selected jurisprudence of national courts), the author shows how recent developments in internal market law have already affected the Court’s traditional stance towards purely internal situations and reverse discrimination, and that these developments can now be used in support of the argument that reverse discrimination is an incongruity in the contemporary EC.

Then, the author provides an in-depth analysis of two of the post-Maastricht developments in the context of free movement: the establishment of the status of Union citizenship by the Treaty of Maastricht in 1993 and the development of that status through the Court’s recent jurisprudence; and the formal completion of the internal market in 1993, as required by the provisions inserted into the EC Treaty by the Single European Act. Focusing on the central issue of whether reverse discrimination is – and should remain – outside the scope of EC law, the author explains what has been the impact of each of these developments on the question of the permissibility of reverse discrimination in EC law.

A brief discussion of the available solutions to the problem and their advantages and disadvantages concludes the presentation.
General Principles of EC Law in a Process of Development

Far from merely an updating of the First Edition, which marked a 1999 conference held under the same auspices at Malmö, this book is entirely new. It underscores the importance of discovering the emergence of new general principles—linked, indeed, to such fundamental continuing concerns as democracy, accountability, transparency, direct effect, good administration, and European citizenship—as they develop in such increasingly important areas as the following:

• core aspects of competition and financial integration law;
• the ongoing process of European constitutionalization;
• the application of general principles in the new Member States;
• the growth of European private law;
• the successive creation of a jus commune europaeum; and
• the instrumental function of the EC Court.

There is also special consideration attached to such overriding issues as the gap-filling function of the principles within the Community legal system, and the implications of the use of a comparative methodology. The authors include both eminent, well-known experts, many of whom took part in the 1999 Conference, and representatives of a new generation of younger scholars in the field. For the myriad parties involved in the evolution of the European project from a legal perspective, this book serves as a watershed, a thorough inspection of the foundations as they are perceived and understood at the present moment. It is sure to be consulted and cited often in the years to come.

Impact Assessment in EU Lawmaking

This book identifies the European Union’s impact assessment regime as a source of these norms. Applying a ‘constitutional lens’ to this ‘regulatory’ topic, Anne Meuwese examines both the details and the framework of IA in EU lawmaking to date, drawing attention to its strengths, its contradictions, and its power to enhance the deliberative quality of legislative debates.

Integrating the perspectives of political scientists and economists with the concerns of legal scholars and practitioners, Dr Meuwese describes and interrelates such aspects of the subject as the following:

• the potential role of impact assessment as a catalyst of legal principles, by emphasising or overriding norms that govern both the procedural and the substantive aspects of the EU legislative process
• the ‘constitutional tasks’ of impact assessment as applied to European legislative proposals, especially relating to subsidiarity, proportionality, and the precautionary principle
• the formal and informal extension of the scope of impact assessment beyond the co-decision procedure
• the question whether impact assessment crosses the line between informing the legislator and fettering legislative discretion

Impact Assessment in EU Lawmaking is a significant milestone in a number of emerging legal debates around Europe’s constitutional future, accountability regimes, ‘meta-regulation,’ and the growing awareness of de facto binding norms. Its vital implications reach far into the future, not only for EU legislation but for the entire field of constitutional law as it adapts to prevailing structures of public power everywhere.
The Law of Payment Services in the EU
The EC Directive on Payment Services in the Internal Market
by Despina Mavromati

Using a dual focus on the historical development of EC financial services law and current trends in this highly evolving sector, this important book masterfully reveals and delimits the legal aspects of payments within the European Union, and analyses the different legislative approaches to harmonization in financial services. The author shows that, despite the inherent sensitivity of the financial services sector and the rapid technological developments, a centralized, EC initiative for payment services has the potential to bring about tangible results in terms of consumer protection and further EC integration.

In the course of her in-depth treatment, the author explores such elements as the following as they relate to payment services:

- the case law of the ECJ on the meaning of payments and capital
- theories of minimum versus maximum harmonization in financial services
- the application of mutual recognition and home country control
- the comitology procedure
- the principle of subsidiarity in the context of financial services legislation
- authorization requirements for payment institutions
- supervision of the payment institutions
- liability for losses from unauthorized transactions
- liability for non-execution or defective execution of a payment transaction
- revocability and irrevocability of a payment order
- varying levels of consumer protection in payment services
- transparency and liability issues under the PSD

April 2008, 332 pp., hardbound, ISBN: 9789041127006, Price: EUR 150.00 / USD 198.00 / GBP 120.00

EU Enlargement and the Failure of Conditionality
Pre-Accession Conditionality in the Fields of Democracy and the Rule of Law
by Dimitry Kochenov

Among the criteria for accession to the European Union are democracy and the Rule of Law. In the insightful analysis offered by the author of this book, these concepts – while admirable and even necessary criteria in principle – are almost impossible to measure, and any judgment grounded in them will always be difficult to justify. In his words, “by including analysis of democracy and the Rule of Law within the field of the EU enlargement law, the Union entered an unstable terrain of vague causal connections and blurred definitions.”

Dr. Kochenov addresses this problem by proceeding as follows:

- First, outlining EU enlargement law in general, including the principle of conditionality and the role played by the analysis of democracy and the Rule of Law in enlargement preparation;
- then, focusing on the role actually played by the monitoring of democracy and the Rule of Law in ten candidate countries, scrutinising the way the EU used the legal tools and competences outlined in its enlargement law.

The book adopts the EU’s own understanding of democracy and the Rule of Law, as derived directly from the substance of the numerous legal and political instruments issued by the Community Institutions and especially the Commission in the course of the pre-accession process. In this way it demonstrates the actual – as opposed to the officially announced – role played by the assessment of democracy and the Rule of Law in the candidate countries in the regulation of enlargement.

February 2008, 400 pp., hardbound, ISBN: 9789041126962, Price: EUR 125.00 / USD 165.00 / GBP 100.00
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