

Book Reviews

John A. Usher, **The Law of Money and Financial Services in the European Community**, Oxford, Oxford University Press (2000), pp. I–xliv and 1–255

According to the author's preface, it is the purpose of this book to present his ideas about the EC's rules on money and financial services as developed in a series of seminars conducted at the College of Europe, and the universities of Stockholm, Helsinki, and Edinburgh.

Usher begins by introducing the basic principles and the main legal texts in the area of EC money and financial services law. The distinction between the free movement of goods or services and the free movement of capital is the next major step as developed in the *Thompson Case*, which established the term *means of payment* and disassociated it from the movement of capital. The rules on the free movement of capital are subsequently discussed in detail, in particular the development from the Maastricht Treaty to the Amsterdam Treaty and how the rules on capital flows have been liberalized in the interest of a functioning common market.

Taxation and its various legal problems are discussed as another aspect of the free movement of capital. While the present reviewer had hoped for a deep and thorough discussion of this important field, the description remains rather superficial. Problems are mentioned but not analyzed in depth in a total of some 20 pages. 'The application of EC competition rules to financial services' is the next chapter in the book. Usher points out how Articles 81, 82 and 86 are generally applicable to financial services, including banking transactions. While useful, this section has partly been overtaken by events and is already a little outdated.

The author then moves on to describe the various banking directives of the EC in some detail and concludes that, despite Member States' reluctance to co-operate in these sensitive areas, a large amount of supranational legislation has already been developed in the banking sector, inter alia for the sake of consumer protection.

The remainder of the book is dedicated to European Monetary Union (EMU), including the historic development, the institutional framework, the relationship between 'ins' and 'outs', and the external monetary relations of the system.

In conclusion it can be said that Usher has written an excellent textbook for students taking courses on European monetary law and financial services. It is easy to understand and presents the material objectively, allowing the reader to develop a

personal and critical opinion. Conversely, the book is less useful for practitioners and others looking for an advanced analysis of the topic.

Dita Sole

Peter J. van Krieken (ed.), **The Migration Acquis Handbook**, The Hague, TMC Asser Press (2001), pp. i-xv and 1–429.

Peter J. van Krieken (ed.), **The Asylum Acquis Handbook**, The Hague, TMC Asser Press (2000), pp. i-xvi and 1–358

Both books by the same editor pursue an ambitious goal. The subtitles are ‘The Foundation for a Common European Migration Policy’ and ‘The Foundation for a Common European Asylum Policy’, respectively. To achieve his goal, the editor first draws on support from sources such as the UNHCR Vienna, the Phare team of the EU, the Dutch Ministry of Justice, and the Dutch Chapter of the Society for International Development. Secondly, the editor uses an innovative concept, which combines textbook-style explanations, compilations of relevant documents, and commentary.

Overall, the concept is successful. Practitioners, policy makers, NGO activists, academics, and students will find that the books are indeed handbooks. In one volume, they bring together a wealth of information that is otherwise not easily available or at least very tedious to find. Anybody working in the field will want to have these books nearby at all times and will appreciate how much time and effort can be saved with their help.

The Asylum Acquis Handbook first contains contributions by various authors on issues such as the history and context of the EU asylum acquis, the harmonization of asylum and immigration policies, decision-making in Justice and Home Affairs, the Amsterdam Treaty’s impact in the field, the enlargement process, and the various actors and sources of law in the field of asylum.

Subsequently, the various lists of documents belonging to the EU asylum acquis are presented. There follows the text of the 26 most relevant documents and the ‘authoritative’ commentaries by the EU Commission on nine of them. Finally, there are a number of additional documents, cross references to ExCom Conclusions and other UNHCR materials, as well as a most useful annex, where important key words and phrases are listed together with precise references to the documents where they are defined or used.

The Migration Acquis Handbook follows largely the same structure. It begins with the ‘Communication from the Commission to the Council and the European Parliament on a Community Immigration Policy’ of 2000. Subsequently, there are contributions by the editor and his team on aging and demography, globalization, illegal migration, trafficking, and family reunification. The next chapter contains

some 70 documents or excerpts of documents, including many relevant recommendations and other soft law sources, that are particularly hard to obtain otherwise. Finally, there are also the most relevant international documents, in particular from the Council of Europe, the ILO, and the UN. At the end of the Handbook, there is a glossary which is, however, not quite as useful as the cross-reference section in the *Asylum Acquis Handbook*, since it does not include references to the documents where the respective terms are quoted or defined.

The quality of the two books is beyond question. They deserve to be widely purchased and to become handbooks in the true sense of the word. Two suggestions shall nevertheless be made. First, the value of the books for academic writers and students, in particular, could be improved in future editions by more systematic references to academic writing and analysis in the field. This may be less relevant for practitioners, but they can also benefit from such kind of references when working on ambiguous and difficult concepts and when drafting strategy papers and the like. Secondly, the specific usefulness of the books is their rather complete compilation of all relevant documents as of 2000 or 2001. As is well known, migration and asylum are very dynamic fields and new recommendations, decisions, and conventions are being negotiated, adopted and entering into force all the time. Thus, the editor should consider establishing a website where these kind of documents can be found until they are incorporated in a new edition.

Frank Emmert

Van der Heijden/Tahzib-Lie (eds), **Reflections on the Universal Declaration of Human Rights – A Fiftieth Anniversary Anthology**, The Hague/Boston/London, Martinus Nijhoff Publishers (1998), pp. 1–344

It may seem awkward to review a book that has been on the market for four years. In this particular case, the trigger is a statement made by Michael Glennon, a fellow at the Woodrow Wilson International Center for Scholars in Washington, D.C. According to Glennon, in the *Financial Times*, 6 May 2002, the world should finally acknowledge that the international law prohibiting the use of force by states in their international relations is but fiction and has no binding value. This claim is supported by statistics attesting to the innumerable violations of the prohibition of the use of force, which have the effect of desuetude on the principle. Verbatim, Glennon claims, ‘Of humanity’s great civic and economic *experiments* of the 20th century, none was more majestic in design or *tragic* in consequence than the effort to subject the use of force to the rule of law.’ (emphasis added)

During the same week as Glennon’s editorial, the White House announced that it will renounce the Rome Statute of the International Criminal Court, claiming that

the court could be used as a tool for politically motivated prosecutions of U.S. servicemen and officials serving abroad.

If the United States, as the monopolistic superpower of the 21st century, is willing to undermine the creation of the ICC which places liability for international crimes at the feet of the felons, arguably the most significant progress in international law since the 1950s, and if this power ignores the rules that prohibit the use of force in solving international disputes, arguably the most significant progress in law of modern man, can the obituary for the Universal Declaration of Human Rights be far behind?

Even though I strongly believe that Mr. Glennon is grossly overestimating the legal significance of the addiction of his own country and some others to the use of force, it is good to see a more upbeat publication, such as the book here reviewed.

This book is not a law book and it is not about law reform. It is an anthology in the true sense of the word, a collection of essays, poetry, miniatures. It is a beautiful book.

The editors have brought together many of the most important voices in international human rights, including Kofi Annan, Aung San Suu Kyi, Jimmy Carter, the Dalai Lama, Mikhail Gorbachev, Vaclav Havel, Rosalyn Higgins, Catharine MacKinnon, Mary Robinson, and many others, fifty in total. And they have invited them 'to share their thoughts' on 50 years of the Universal Declaration. Some of these thoughts are political, some are legal; some are encouraging, some are sobering. Interspersed between the writings are the 30 Articles of the Universal Declaration with illustrations by the Dutch artist Lawrence Gerner.

This book is addressed to those who care about human rights, to those who do not believe and will not accept that the essential achievements of mankind will be obliterated as a consequence of electoral fraud in Florida. It is addressed to those who believe in the rule of law rather than the rule of force. For these kinds of people *Reflections* can be a modern book of hours, to be consulted for inspiration and motivation.

Frank Emmert