

THE CAMBRIDGE YEARBOOK
of
EUROPEAN LEGAL STUDIES



VOLUME FIVE
2002-2003

Edited by John Bell, Alan Dashwood,
John Spencer & Angela Ward

THE CENTRE FOR EUROPEAN LEGAL STUDIES, CAMBRIDGE

The Cambridge Yearbook of European Legal Studies provides a forum for the scrutiny of significant issues in European Union Law, the Law of the Council of Europe, and Comparative Law with a “European” dimension, and particularly those which have come to the fore during the year preceding publication. The contributions appearing in the collection are commissioned by the Centre for European Legal Studies (CELS) Cambridge, which is the research Centre of Cambridge University Law Faculty specialising in European legal issues.

The papers presented are all at the cutting edge of the fields which they address, and reflect the views of recognised experts drawn from the University world, legal practice, and the civil services of both the EU and its Member States. Inclusion of the comparative dimension brings a fresh perspective to the study of European law, and highlights the effects of globalisation of the law more generally, and the resulting cross fertilisation of norms and ideas that has occurred among previously sovereign and separate legal orders.

The Cambridge Yearbook of European Legal Studies is an invaluable resource for those wishing to keep pace with legal developments in the fast moving world of European integration.

THE CAMBRIDGE YEARBOOK OF
EUROPEAN LEGAL STUDIES

Volume 5, 2002–2003

The Cambridge Yearbook of European Legal Studies provides a forum for the scrutiny of significant issues in European Union Law, the Law of the Council of Europe, and Comparative Law with a 'European' dimension, and particularly those which have come to the fore during the year preceding publication. The contributions appearing in the collection are commissioned by the Centre for European Legal Studies (CELS) Cambridge, which is the research Centre of Cambridge University Law Faculty specialising in European legal issues.

The papers presented are all at the cutting edge of the fields which they address, and reflect the views of recognised experts drawn from the University world, legal practice, and the civil services of both the EU and its Member States. Inclusion of the comparative dimension brings a fresh perspective to the study of European law, and highlights the effects of globalisation of the law more generally, and the resulting cross fertilisation of norms and ideas that has occurred among previously sovereign and separate legal orders.

The Cambridge Yearbook of European Legal Studies is an invaluable resource for those wishing to keep pace with legal developments in the fast moving world of European integration.

Editorial Advisory Board

PROFESSOR PHILIP ALLOTT, Trinity College Cambridge
PROFESSOR TONY ARULL, University of Birmingham
CATHERINE BARNARD, Trinity College Cambridge
PROFESSOR ALAN DASHWOOD, Barrister, Sidney Sussex College Cambridge
MR DAN GOYDER CBE, Consultant Solicitor, Linklaters and Alliance,
Visiting Professor of Law, King's College London
PROFESSOR ROSA GREAVES, Durham University
PROFESSOR BOB HEPPLE QC FBA, Clare College Cambridge
PROFESSOR DAVID O'KEEFFE, University College London
LORD LESTER OF HERNE HILL QC
STEPHANIE PALMER, Girton College, Cambridge
DAVID VAUGHAN QC, CBE, Brick Court Chambers
DR ANGELA WARD, Reader in Law, Essex University
PROFESSOR SIR DAVID WILLIAMS QC, Emmanuel College, Cambridge
PROFESSOR D.A. WYATT QC, St Edmund Hall, Oxford

The Cambridge Yearbook of European Legal Studies

VOLUME 5, 2002–2003

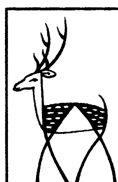
EDITED BY

John Bell

Alan Dashwood

John Spencer

Angela Ward



• H A R T •
PUBLISHING

OXFORD AND PORTLAND OREGON

2004

Published in North America (US and Canada) by
Hart Publishing
c/o International Specialized Book Services
5804 NE Hassalo Street
Portland, Oregon
97213-3644
USA

© The editor and contributors severally 2004
The Editor and Contributors have asserted their right under the Copyright,
Designs and Patents Act 1988, to be identified as the authors of this work.

Hart Publishing is a specialist legal publisher based in Oxford, England. To
order further copies of this book or to request a list of other publications
please write to:

Hart Publishing, Salters Boatyard, Folly Bridge,
Abingdon Rd, Oxford, OX1 4LB
Telephone: +44 (0)1865 245533 Fax: +44 (0) 1865 794882
e-mail: mail@hartpub.co.uk
WEBSITE: <http://www.hartpub.co.uk>

British Library Cataloguing in Publication Data
Data Available
ISBN 1-84113-361-2 (hardback)

Typeset by Olympus Infotech Pvt., Ltd. India, Sabon10/12pt
Printed and bound in Great Britain by
MPG Books Ltd., Bodmin, Cornwall

Contents

<i>List of Contributors</i>	vii
<i>Table of Cases</i>	ix
<i>Table of European Legislation</i>	xxv
<i>Table of International Conventions and Agreements</i>	xxxiii
<i>Table of Legislation from Other Jurisdictions</i>	xxxvii
1. National Courts—the Powerhouse of Community Law <i>David Edward</i>	1
2. The Responsibility of Judges in France <i>Guy Canivet</i>	15
3. The UK and the Euro: Some Key Economic Issues <i>Mića Panić</i>	35
4. The Introduction of the Euro Banknotes: Some Legal Issues <i>Antonio Sáinz de Vicuña</i>	59
5. The Political Problems of the Euro-Zone <i>Helen Thompson</i>	71
6. The European Model of Agriculture and World Trade: Reconfiguring Domestic Support <i>Michael Cardwell</i>	77
7. European Integration and Globalisation: The Experience of Financial Reporting <i>Charlotte Villiers</i>	105
8. Law, Economics and Politics in the Constitutionalisation of Europe <i>Christian Joerges</i>	123
9. Collective Dominance in EC Competition Law: Trojan Horse or Useful Tool? <i>Albertina Albors-Llorens</i>	151
10. Partial Harmonisation and European Social Policy: A Case Study on the Acquired Rights Directive <i>Amandine Garde</i>	173

11. The European Community's Anti-Dumping Policy: The Quest for Enhanced Predictability, Rationality, European Solidarity and Legitimacy <i>Guy Harpaz</i>	195
12. The European Convention on Human Rights and International Public Order <i>Alexander Orakhelashvili</i>	237
13. Public Services and European Law: Looking for Boundaries <i>Eleanor Spaventa</i>	271
14. Lay Judges <i>John Bell</i>	293
15. The Race Directive: Recycling Racial Inequality <i>Fernne Brennan</i>	311
16. New Rules of Breach of Contract in Germany <i>Wolfgang Ernst</i>	333
17. European 'Citizenship': In its Own Right and in Comparison with the United States <i>Thomas C Fischer</i>	357
18. The Draft EU Constitution—First Impressions <i>Alan Dashwood</i>	395
<i>Index</i>	419