

Court of Justice of the European Union

Commentary on Statute and Rules of Procedure

von
Bertrand Wägenbaur

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by

Bertrand Wägenbaur

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Preface

“The League of Nations is nearing a decisive test. If it fails, world war will inevitably repeat itself even more terribly than before ... Should this League of Nations fail, a future generation will one day be forced to create another one. But (that generation) will only arrive at that point through a sea of blood and tears even worse than the one which we just crossed”.¹ It is with this gloomy prophecy that Prof. Dr. Heinrich Rauchberg, former Rector of the German University of Prague, closed a book he published in 1932². He did not live to see the subsequent global catastrophe he had predicted. Nevertheless, the concept he proposed- that of a group of States learning from history by signing a new Treaty in order to maintain peace and understanding amongst formerly warring nations- would soon materialize. This new attempt at peaceful European Union began in 1952 with the Treaty on Coal and Steel, which was soon followed by further Treaties and steps towards ever increasing European integration. This decades-long process has resulted in a union of 27 Member States as well as the longest period of sustained peace and economic development in European history.

Ironically, this era of unprecedented stability and unity induces us to take peace in this part of the world for granted. We should therefore allow this era to make us all the more aware of what we *really* owe to European integration, which the award of the Nobel peace prize to the EU so rightly acknowledges. Thus, our challenge is to never allow criticism arising from day-to-day EU issues and also more fundamental questions, no matter its merit, to make us lose sight of the priceless value of this historically unique process.

Achieving a community of peace, common values, and economic development is of course not only a matter of attitude or mindset, but also a matter of appropriate instruments of integration. These tools can be found in the series of Treaties which since 1952 have served as the practical means to implement the goal of European unity. Dispute resolution as embodied by the Court of Justice of the European Union is undoubtedly one of the most important of these. The Court of Justice of the European Union is thus much more than a supranational judicial instance: it serves the unity of EU law and is a major player in a vital peacekeeping mission. This Court must guarantee that a broad variety of parties, ranging from Member States and EU institutions to natural and moral persons, each of whom has their own, sometimes very antagonistic, interests, can solve conflicts peacefully through common judicial instruments rather than through force. This requires an elaborate judicial system with a variety of legal remedies governed by specialized procedural rules.

This book seeks to illuminate the procedural rules governing the three judicial instances of the EU by providing commentary on every article of the Statute of the

¹ French original text: *“La Société des Nations approche d’une épreuve décisive. Si elle échoue, la Guerre Mondiale se répètera fatalement, plus terrible encore. ... Cette Société des Nations échouée, une génération future sera un jour forcée d’en créer une autre. Mais elle n’y parviendra qu’à travers une mer de sang et de larmes plus terrible encore que celle que nous venons de traverser.”*

² In *“Les Obligations Juridiques des Membres de la Société des Nations pour le Maintien de la Paix”*, pages 118–119, Sirey, Paris, 1932.

European Court of Justice as well as the Rules of Procedure of its three constituent instances. It combines an academic approach with practical advice from experience in EU litigation while also providing critical views and proposals for improvement where appropriate.

The intention of this book is to enable quick access to a given subject or detail of EU procedural law. Inspired by an earlier German version, the present volume has been completely rewritten and restructured. It also seeks to respond to questions which those less familiar with the continental legal system might have. It is therefore intended to facilitate comprehension and practical application of EU judicial procedure whilst not losing sight of these rules' historic context. For if no one really knows where we are going to, we should at least remember where we come from.

Brussels, autumn 2012

Bertrand Wägenbaur LL.M.

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