

BOOK REVIEWS

A. Cassese, C. Lalumière, P. Leuprecht and M. Robinson, *Leading by Example: A Human Rights Agenda for the European Union for the Year 2000. Agenda of the Comité des Sages and Final Project Report*. Florence: Academy of Law, European University Institute, 1998. 125 pages.

On the occasion of the 50th anniversary of the Universal Declaration of Human Rights, the Academy of European Law at the EUI undertook a large-scale research project intended to provide a thorough critical analysis of the EU's human rights-related activities and to formulate specific proposals for their improvement.

The project, directed by Alston and funded by the EC Commission, involved a large number of influential scholars and practitioners (Jacqué, Weiler, Clapham, Gaja, Rosas and Bradley are but a few of them), who prepared reports on an extremely wide range of human rights issues. Alston and Weiler synthesized many of these contributions in a final Report, on the basis of which a *Comité des Sages* consisting of Judge Cassese, mme. Lalumière, Professor Leuprecht and Mrs Robinson adopted a "Human Rights Agenda for the European Union for the Year 2000". This remarkable collective effort eventually led to the publication of two distinct books: *The EU and Human Rights* (reviewed separately in this Review, Oct. 2000) and *Leading by Example*. While the former is the collection of almost all of the papers written for the research project and represents (in the words of its editor) the "most wide-ranging survey yet to be undertaken of the role of the European Union in relation to human rights", *Leading by Example*, which includes the Report and the Agenda, is a very concise publication principally intended to illustrate the vast reform plan proposed by the *Sages* to the European institutions.

The analysis and propositions developed in *Leading by Example* all rest on the basic assumption, shared by the *Sages* and by the Rapporteurs, that the EU's existing policies in the field of human rights are no longer adequate to respond to its commitment and to its duties in the field of human rights. The fragmentation of responsibilities between a large number of entities, the lack of systematic training of EU officials on the increasingly complex matter of human rights, the lack of a clear legal framework for the funding of human rights-related activities and the absence of a systematic information base for the Union's institutions are some of the factors described and analysed by the authors, and that render the Union's approach to human rights inconsistent and fragmentary.

The EU's strategy of protection of human rights within its own borders is also criticized, in that it relies almost exclusively on judicial protection. Alston and Weiler effectually demonstrate that while it is a cornerstone of any human rights regime, judicial protection of human rights is not sufficient. The Commission, the Council and the European Parliament are therefore called to play their role fully by promoting respect for fundamental rights, and by mainstreaming human rights considerations in each and every legislative initiative likely to concern them.

This last point perfectly illustrates the most distinctive feature of the book under review: while the classic elements of a work on the protection of human rights within the European legal order (e.g. a review of the ECJ case law starting from *Stauder* and *Internationale Handelsgesellschaft*) are almost utterly absent, the focus of the study is squarely placed on the role

of the political institutions and of those agencies whose activities are related to human rights, as well as on the effectiveness of their action. Accordingly, the proposed reforms concern the internal structure of these institutions as well as the informational, budgetary and human resources of which they dispose for addressing human rights issues. To mention but two of the proposed reforms, it is suggested that in the next Commission there should be a specialized Human Rights Commissioner, and that the information input of the Union's institutions should be strengthened and made consistent e.g. by means of human rights annual surveys to be established by the Commission and the Council on the one hand, and by the Vienna Monitoring Agency on the other.

A noteworthy quality common to all of the proposed reforms is their realism: particular attention is devoted to their legal and political feasibility, in the sense that they do not imply Treaty amendments, radical changes in the allocation of responsibilities and powers among the institutions nor major additional expenditures.

Leading by Example has, in our view, a number of qualities that make it recommendable reading: (i) its focus is almost exclusively on institutional matters; while this may constitute in the eye of some readers its principal limitation, we think that this makes of it a very original contribution, dealing with issues which are seldom specifically taken into consideration but which are of crucial importance; (ii) despite its relatively small dimension, it provides the reader with a fairly complete, albeit very concise, description and analysis; (iii) we personally find that the book is very well written and expresses positions and ideas of great interest.

One might fear that this book may be overtaken by events. Human rights law is in fact undergoing a constant process of evolution, and this is particularly true of EU human rights law: in particular, in the near future the interest of legal scholars will most likely be centred on the new EU Charter of Fundamental Rights. Will *Leading by Example* become an "old book" then? In our opinion this is not the case.

In the first place, the analysis and proposals developed therein are focused on institutional and legal issues which will not be significantly affected by the adoption of the Charter. On the contrary, the Charter, whatever its legal significance, will have to be complemented by the appropriate organizational reforms if the EU is to lay down the foundations of a "coherent, balanced, substantive and professional" human rights policy. Secondly, it will be interesting to see if and to what extent the European institutions achieve the suggested reforms. In this context, the book will constitute a precious tool for understanding and appraising the future evolution of the institutional context of the EU's human rights policies.

Finally, even though the Charter is the creation of the Convention, a body in which the authors of *Leading by Example* were not directly involved, no future discussion concerning fundamental rights should ignore the preparatory intellectual input of which this publication proves a fine and lasting example.

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A. Ward, *Judicial review and rights of private parties in EC Law*. Oxford: Oxford University Press, 2000. 368 pages. GBP 60.

Angela Ward's aim is to examine critically the concepts of "individual rights" and "effective judicial protection" in the European Community legal order. More specifically, she wants to assess the extent to which different standards are applied when reviewing Member States' decisions as opposed to acts of Community institutions. To this end, the case law of the European Court of Justice and of the Court of First Instance concerning judicial protection against Member States and Community institutions is analysed in detail.