

# CONTENTS

## Law of the European Organisations

<i>As.Prof. JUDr. Nadezda Siskova, Ph.D.</i> , The Human Rights Protection in the European Union Context and its Current Dilemma	2
<i>Dr. Franz Leidenmühler / Katharina Dirisamer / Florian Obermayr</i> , Preferential rates for nationals and local residents (“Einheimischentarife”) under the scrutiny of Community Law	9
ECJ 17 February 2005 – <i>Salah Oulane v Minister voor Vreemdelingenzaken en Integratie</i> – Article 49 EC – Directive 73/148 Article 4(2) – Free movement of persons – Right of entry and residence – Requirement to present an identity card or a passport	13
ECJ 17 February 2005 – <i>Viacom Outdoor Srl v Giotto Immobiliare SARL</i> – Articles 49, 82, 86, 87 and 88 EC – Legislative Decree (I) No 507/93 – Freedom to provide services – Competition	16
ECJ 20 January 2005 – <i>Nils Lawrin Effing</i> – Article 12 EC – Regulation No 1408/71 Articles 3 and 13 – Family benefits – Grant by a Member State of advances – Conditions	18
BGH (D) 28 October 2004 – Article 43 EC Treaty – Directive 84/253 – Directive 89/48 Article 4 – State liability under Community law – Infringement of Community law by decision of a court	21

## International and European Commercial and Company Law

OLG München (D) 15 September 2004 – CISG Articles 49(1)(a), 76(1) – Purchase of goods in replacement – Material infringement of contract – Market price	23
OLG Düsseldorf (D) 22 July 2004 – CISG Articles 26, 64(1), 75 – BRAGeO (D) para. 118(1)(1) – Purchase of goods in replacement – Avoidance of the contract – Attorney’s fee	23

## International and European Business and Competition Law

ECJ 13 January 2005 – <i>Streekgewest Westelijk Noord-Brabant v Staatssecretaris van Financiën</i> – Article 93(3) EC Treaty (Article 88(3) EC) – State aid – Planned aid – Prohibition	24
ECJ 13 January 2005 – <i>F.J. Pape v Minister van Landbouw, Natuurbeheer en Visserij</i> – Article 93(3) EC Treaty (Article 88(3) EC) – State aid – Planned aid – Prohibition	26
CFI 26 January 2005 – <i>Laurent Piau v Commission</i> – Articles 49, 81 and 82 EC – Regulations of the Fédération internationale de football association (FIFA) governing the occupation of player’s agents – Decision by an association of undertakings – Complaint	27
OLG Wien (A) 18 October 2004 – Article 81 EC – Regulation No. 1/2003 Articles 1 and 5 – Ski network – Application for declaration of non-applicability of Article 81 EC	29

## European Intellectual Property Law

BGH (D) 30 September 2004 – Articles 28, 30 EC – Re-labelling of an imported medical product – Right to injunctive relief under the law of trademarks	31
---	----

## International Private Law and European Harmonisation of Private Law

ECJ 27 January 2005 – <i>Guy Denuit, Betty Cordenier v Transorient – Mosaique Voyages and Culture SA</i> – Article 234 EC – Directive 90/314 – Reference to the Court – National court or tribunal within the meaning of Article 234 EC – Arbitration panel	33
Corte di Cassazione (I) 30 July 2004 – Articles 1469-bis et seqq of the Italian Civil Code, implementing Directive 93/13 – Unfair Terms in Consumer Contracts – Competence Clause – Definition of Consumer ( <i>Avv. Gaetano Iorio Fiorelli, Avv. Fabio Mazza</i> )	34

## International Private and Procedural Law

<i>Prof. Dr. jur. Dipl. Math. Thomas Rauscher</i> , Parental Responsibility Cases under the new Council Regulation “Brussels IIA“	37
ECJ 20 January 2005 – <i>Petra Engler v Janus Versand GmbH</i> – Brussels Convention Article 5(1) and (3) and Article 13, first paragraph, point 3 – Entitlement of a consumer to whom misleading advertising has been sent to seek payment of the prize which he has ostensibly won – Classification – Conditions	46
ECJ 20 January 2005 – <i>Johann Gruber v Bay Wa AG</i> – Brussels Convention Article 13(1) – Consumer contracts – Purchase of roofing tiles for a farmhouse which is occupied partly in a private capacity as a family dwelling and partly for farming purposes	49
Tribunale di Rovereto (I) 28 August 2004 – Brussels I Regulation Article 5(1)(b) – Purchase of Movable Goods – Place of delivery ( <i>Dr. Eva Kaster-Müller</i> )	52
BGer (CH) 4 October 2004 – Lugano Convention Article 2(1), Article 5 No. 3 – TRIPS-Convention – Patent law – International Jurisdiction – Foreign connecting factor – Jurisdiction of place where the harmful event occurred	55

## International and European Labour and Social Security Law

ECJ 27 January 2005 – <i>Irmtraud Junk v Wolfgang Kühnel</i> – Directive 98/59 – Collective redundancies – Concept of ‘redundancy’ – Time at which redundancy takes effect	55
OGH (A) 9 November 2004 – Article 49 EC; Regulation No. 1408/71 Articles 22 and 36 – Utilisation of health services in the European single market – Reimbursement of medical expenses incurred in another Member State – Freedom to provide services	57

New Publications	59
Table of Abbreviations	II
Conference Calendar	III
Masthead	IV