the present reviewer it seemed, after having read von Bar, that to achieve any serious harmonization in the EU would require nothing less than throwing out the entire common law approach of pigeon-hole type tort structure and rewriting either the German or French tort code. While, from a theoretical standpoint, such a change may be desirable in the EU, it seems unlikely that England will be willing to give up its various forms of tort, or Germany to opt for a less restrictive and less theoretical approach such as found in the French Code Civil. Hence, to promote the idea of a common law of tort in Europe by emphasising the 'similarities' in the national systems seemed somewhat akin to trying to pound a square peg into a round hole. Naturally, these problems do not in any way diminish the achievement of von Bar.

Stylistically, the book is very well written/translated, both instructive and lucid. Sometimes it is somewhat heavy reading, with many pages consisting of equal parts text and footnotes. Occasionally, the author uses more or less lengthy phrases in French and other languages, which may be unintelligible to some readers and should have been supplemented by English translations in footnotes. Nevertheless, the rich bibliography and comprehensive tables of translated national legislation are very powerful arguments in and of themselves for acquiring this book.

Overall, it is an achievement that can only be commended and highly recommended to its potential readers.

William Burns

Thomas M.J. Möllers, *Die Rolle des Rechts im Rahmen der europäischen Integration*, Tübingen: Mohr Siebeck (1999), pp. 1–119 and i–viii.

Ulrich Beck once said that unless the national politics of European States become part of the transnational system of European integration, they would continue to react to the threats of globalisation, instead of pro-actively shaping globalisation for the opportunities it holds. This is the point of departure of Thomas Möllers' essay. He sees common tasks of the European States, such as overcoming the lipothymia of the nation state at the doorstep to the 21st century, as well as common goals, such as the desire to play a more constructive role in the world alongside the USA. Regional integration in the form of the European Union potentially provides the means. However, Möllers also diagnoses a fundamental weakness in this integration process: while it is built on law, the quality of its laws is often left wanting. One reason for this weakness, according to the author, is the lack of a common European methodology of law, which was as yet simply not developed, in spite of many common legal traditions of the EU Member States.

On the basis of this analysis, the second half of the book is dedicated to providing some stepping stones for a future common European methodology of law. Möllers focuses on methodology at the EU level, on methodology at the national level, when

EU law is implemented, and finally on language as a crucial element in the common methodology.

Even more than the first part, the second makes for interesting reading. It contains a multitude of proposals and ideas, some developed in greater detail than others, others just hinted at. While many will remain theoretical or utopian, given the murky procedures in Brussels, Luxembourg and Strasbourg – remember the old proverb that those who like sausages and laws should not look too closely at how they are made – there are more than enough useful and realistic ideas in the text to make follow-up studies towards a more developed methodology and guidelines for European best practices worthwhile.

To give but a few examples: Möllers notes that some of the Member States are still not seriously interested in European directives prior to their actual adoption by Council and Parliament. He cites the French example, where impact studies have to be made for each piece of legislation discussed at the European level in order to achieve a good understanding of what it will mean for France, which legislative instruments and administrative practices may need to be changed and whether there could be any specific problem in the practical implementation. Obviously, this would be a very advisable approach for all Member States. Möllers also promotes the idea of a European Law Institute – which could be located at the European University Institute in Florence – with the task of preparing legislative proposals based on scientific analysis towards optimal solutions of given problems. These proposals should then influence and ideally replace the horse-trading and formula compromises that so far all too often riddle the legislative process in Brussels. The European Court of Justice is encouraged to provide more extensive reasoning and explanations for those of its decisions that could meet with acceptance problems in certain Member States.

On the national level, Möllers would like to see less formalistic application of EU law and more concern for the *telos*, the goals to be achieved. Thus, the transposition of directives by way of an ever-increasing number of special laws, without serious analysis of the need to make changes in other parts of the existing legal order must come to an end. For the national courts, more emphasis on the *telos* of European law can mean in specific cases applying progressive interpretations of national law. However, Möllers points out rightly that this kind of legal activism is by no means *contra legem*. Under the presumption that the national legislature intended to transpose a directive properly, the judge is actually fulfilling this intention by going beyond the wording of national law in order to achieve conformity with the prescriptions of the directive. Naturally, the courts have to disclose how and why they arrived at a certain result and how it fits into the existing body of case-law, even if continental European law does not recognize a binding rule of *stare decisis*.

Finally, with respect to language, Möllers accepts the position of Grimm, Kirchhoff, and others, according to whom there will not be a European *demos*, as long as there are a multitude of languages spoken in the EU. However, instead of postponing further integration and leaning back to wait for the *demos* to grow, Möllers makes practical suggestions for overcoming the language barriers in law.

While discourse in natural sciences has largely shifted to English, the national languages are more than just a means of communication in law. Consequently, the solution cannot be a replacement of the national languages with a new *lingua franca*. Rather, the solution must be a complementary second language. This second language should be English and it should be promoted beyond the level of high school small talk that is commonly found in Germany, France, Italy and other Member States. Law schools should follow the models found in Sweden or the Netherlands and introduce mandatory courses taught in English in subjects such as comparative law, public international law, or European Union law. But the onus is not only on the educational institutions. In order to have an impact abroad, to be noted and considered, the decisions of the highest courts of each Member State could be systematically translated and published in English as well. Finally, equally important is that those national laws that are adopted in order to transpose European law should be published both in the national language and in English.

Möllers has written a short book that reads well and quickly. It contains many proposals and ideas that deserve broader attention and discussion. Anyone who can read it in the original should do so. For all other readers, Möllers has written a somewhat more comprehensive article "The Role of Law in European Integration" in *AJCL* Vol. XLVIII (fall 2000), No. 4, pp. 679–712; the three-page English language summary at the end of the book can only serve as an *amuse bouche*.

Frank Emmert

Helen Staples, *The Legal Status of Third Country Nationals Resident in the European Union*, The Hague et al.: Kluwer Law International (1999), pp. 1–418 and i–xviii

This book was written as the author's doctoral dissertation at the University of Utrecht. It discusses the lack of a common immigration policy in the EU with respect to third-country nationals. While there is Community law on the immigration of nationals of other Member States, the current immigration law for third-country nationals is still largely contained in the national law of individual Member States, with a patchwork of provisions in association agreements to which the EC is also a signatory. The European Court of Justice has recognised the direct applicability of provisions of the association agreements under certain conditions and these provisions may prevail over conflicting national law. However, many issues remain unresolved, even for those groups of persons covered by an association agreement. Aside from nationals of another Member State, nationals of a state with whom there is an association agreement that includes provisions for the free movement of persons, and nationals of states that do not have any such benefits under EC law, there is a fourth group of persons, namely family members of a Member State national who is employed in another Member State. The latter group enjoys a range