

BOOK REVIEW

CHARLES H. KOCH JR., ADMINISTRATIVE LAW OF THE EUROPEAN UNION: INTRODUCTION

George A. Bermann, Charles H. Koch, Jr., and James T. O'Reilly, series eds., American Bar Association, 2008 (six volumes). Pp. XXXIV + 50*.¹

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I. INTRODUCTION: A COMPREHENSIVE PRIMER AND EASY-TO-USE REFERENCE FOR U.S. PRACTITIONERS

As the European Union grows in Member States, its importance as an entity unto itself on the world stage will also continue to grow. And as the global financial crisis strains the internal partnerships of the European Union,² it is ever more important for American lawyers to understand it. This six-volume set, *Administrative Law of the European Union*, written and edited by some of the world's foremost experts on EU and administrative law, facilitates that understanding. American lawyers whose practices require a working knowledge of the European Union and students with an eye toward EU-U.S. comparative scholarship will find it a first-rate primer and reference. It will help them understand not only the growing list of EU agencies and their acronyms³ but also the basic workings of the Union beyond the administrative context.

* Reviewed by Brendon S. Fleming, Executive Editor, Columbia Journal of European Law.

¹ Hereinafter INTRODUCTION.

² Steven Erlanger & Stephen Castle, *Growing Economic Crisis Threatens the Idea of One Europe*, N.Y. TIMES, Mar. 2, 2009, at A1 (noting the challenges the EU faces in the midst of the world financial crisis and the strains the crisis has put on the ties among the Member States in terms of what measures should be taken in response).

³ "European agencies have increased from four in 1993 to 22 in 2007. It is expected that this number will continue to rise." INTRODUCTION, *supra* note 1, at 18.

This work fills an important gap. The collection is, effectively, “European Union Law for Yankees.” It offers readers—who the editors themselves expect will primarily be U.S. lawyers whose practices intersect with Europe on a semi-regular basis⁴—a crash course in EU law and institutions. The collection offers that crash course through the lens of EU administrative law. Because the European Union’s administrative and regulatory functions have such an effect on U.S. business and individual interests,⁵ and because administrative law is so critical to the Union,⁶ this work effectively serves as a primer on the European Union as a whole, rather than merely landing a glancing blow on its institutional and structural underpinnings while explaining its administrative law.

The understanding readers will get from this work’s treatment of the European Union and its administrative law is critical because, as the introductory volume notes, “A U.S. lawyer who does not have some familiarity with the EU government and law may fail to appreciate opportunities and responsibilities. In short, U.S. lawyers may not represent their clients to the full extent required of modern practice.”⁷

The material will likely be familiar to EU specialists or scholars of comparative law, but it is an important, accessible work for practitioners who expect, want, or need to engage with the EU’s administrative functions. This review closely examines the introductory volume, with an eye toward its efforts to put in context the other volumes and set the scene for readers. The introduction knits together the collection’s five other volumes into a comprehensive whole with the common purpose of explaining EU administrative law in terms readily understandable to American lawyers. The remaining volumes tease out the concepts in much greater detail, continuing the comparisons between EU and U.S. administrative structures, substance, and operation.

The collection’s biggest drawback—that it is in some ways already outdated—is not a failure on the authors’ or editors’ parts, but it is rather a function of the unpredictable nature of the European Union and its complex, treaty-based governance structure.⁸ Most notably, the fate of the Lisbon Treaty, which was expected to be the next step in the “constitutionalization” of Europe and was to have

⁴ See *id.* at xvii (“[t]he present study was launched initially with a view to providing an American audience an accurate and reasonably comprehensive account of European Union administrative law processes”); see also *id.* at 35 (“[t]he partnership between the EU and the U.S. is a reality in a wide range of U.S. practice”).

⁵ *Id.* at xvii (“no other regulatory regime outside the U.S. affects American businesses and individuals as regularly and intensively as the European”).

⁶ See generally PAUL CRAIG, *EU ADMINISTRATIVE LAW* (2006). There is even a law journal dedicated entirely to the subject. R. EUR. ADMIN. L. (Neth.). This collection’s introductory volume also notes the importance of the Union’s central administrative body, the European Commission, as “the hub of the EU . . . with most of the administrative responsibilities.” INTRODUCTION, *supra* note 1, at 14.

⁷ INTRODUCTION, *supra* note 1, at 35–36.

⁸ See, e.g., *id.* at 27 (discussing the European Union’s framing treaties as the “primary legislation” underpinning the Union and noting that its “constitutional document” can be more “efficiently change[d]” than the more static U.S. Constitution); see also Ingolf Pernice, *The Treaty of Lisbon: Multilevel Constitutionalism in Action*, 15 COLUM. J. EUR. L. 349, 352 (2009) (“the European Union . . . is not a state but a supranational polity based upon states and binding their respective constitutions together into what I would call a composed constitutional system”) (internal citation omitted).

already been ratified by all member states,⁹ remains uncertain.¹⁰ As Ingolf Pernice notes in this issue, “The European Union is facing political difficulties again. After the Irish rejection of the Treaty of Lisbon, it now finds itself attempting to salvage a treaty that is deemed to be itself a salvaging of the reform promised by the Treaty Establishing a Constitution for Europe.”¹¹ The uncertainty about the Treaty of Lisbon, and more broadly, the prospects for further “constitutionalization” of the European Union, puts any author in a precarious position when writing about how a pending treaty may affect the Union’s functions, and this collection is no exception.

II. THE AUTHORS

A quick look at the collection’s list of editors and authors¹² will indicate, even to a beginning student of administrative law or of the European Union, the intellectual firepower behind it. Editors George A. Bermann, Charles H. Koch Jr., and James T. O’Reilly are merely the headliners in a transatlantic, superstar showcase of scholars.

Bermann, the Jean Monnet Professor of EU Law and Walter Gellhorn Professor of Law at Columbia Law School and the founder of this journal and chairman of its executive board,¹³ and his co-editors, administrative law and EU law expert Charles H. Koch Jr. of William and Mary Law School,¹⁴ and administrative law scholar James T. O’Reilly of the University of Cincinnati College of Law,¹⁵ have expertly pulled together the insights and knowledge of a diverse group of authors whose collective knowledge in this field is importantly and accessibly recorded in this collection. Koch, author of the introductory volume,¹⁶ ties together the package with an explanation of its scope and context necessary to give the collection a coherence and uniformity.

⁹ See *id.* at 5 (“it is hoped that the new treaty will be ratified by 2009”).

¹⁰ Pernice, *supra* note 8, at 358 (noting that despite the signature by all twenty-seven Member States in Lisbon on December 17, 2007, the treaty “attempt seems to have failed . . . after the negative vote of the Irish people in June 2008”). In the Czech Republic, both houses of parliament have now approved the treaty, but approval from President Vaclav Klaus was still pending at the time this issue went to press. “Mr. Klaus has said he regards the Lisbon Treaty as a step toward a European superstate and said last week that he was in no hurry to sign it, even though both houses of Parliament in the Czech Republic have approved it.” Stephen Castle & Dan Bilefsky, *Awkward Dance for E.U. Treaty Talks*, N.Y. TIMES, May 12, 2009, <http://www.nytimes.com/2009/05/13/world/europe/13iht-union.html>.

¹¹ Pernice, *supra* note 8, at 351. A second referendum may be held in Ireland in November 2009. See Jan Flehr, *Czech Senators Approve European Union’s Lisbon Treaty*, AFP, May 6, 2009, http://news.yahoo.com/s/afp/20090506/wl_afp/eupoliticstreatyczechlead_20090506205441 (“[The treaty] now depends largely on Ireland, which will hold a second referendum by November”); see also Stephen Castle, *Ireland Pledges Another Vote on Europe Pact*, N.Y. TIMES, Dec. 11, 2008 (“Ireland agreed in principle to hold a second vote on an accord intended to strengthen the union, but opponents vowed to defeat any such measure”); but see Castle & Bilefsky, *supra* note 10 (“The goal of the summit meeting in June is to reach agreement on concessions intended to tempt Ireland to hold a second referendum on an ambitious pact known as the Lisbon Treaty”) (emphasis added).

¹² See INTRODUCTION, *supra* note 1, at ix–xvi.

¹³ Columbia Law School: Full Time Faculty, George A. Bermann, http://www.law.columbia.edu/fac/George_Bermann (last visited Apr. 25, 2009).

¹⁴ INTRODUCTION, *supra* note 1, at 35.

¹⁵ University of Cincinnati College of Law Faculty & Staff, James T. O’Reilly, <http://www.law.uc.edu/faculty/profiles/oreilly.php> (last visited Apr. 18, 2009).

¹⁶ INTRODUCTION, *supra* note 1, at 1.

Joining the effort are Alfred C. Aman Jr., Michael Asimow, Lucas Bergkamp, Lisl J. Dunlop, Frank Emmert, Cynthia R. Farina, Christoph Feddersen, Ronald M. Levin, Peter L. Lindseth, Alan Charles Raul, Sidney A. Shapiro, Turner T. Smith Jr., Peter L. Strauss, and Thomas M. Susman.¹⁷ Among others, American scholars and students of administrative law will recognize Farina, Strauss, and Rakoff as among the current authors of the prominent administrative law casebook, *Gellhorn & Byse's Administrative Law: Cases and Comments*.¹⁸

While the series benefits from having these renowned legal scholars as its authors, the contributions of Peter L. Lindseth, author of the oversight volume, should be particularly noted. Lindseth, of the University of Connecticut School of Law and a visiting professor at Yale Law School during the 2008–09 academic year, is an expert in European integration, among other areas of scholarship,¹⁹ and he served in various capacities for this journal during its first six volumes.²⁰

III. COMPARISONS TO AND DISTINCTIONS FROM ADMINISTRATIVE LAW IN THE UNITED STATES

The work is framed in the context of comparisons between administrative law functions and procedures in the United States and those in the European Union. Hardly a page goes by in the introductory volume, for example, without reference to a comparable procedure in the United States or an explanation about why a procedure in the European Union differs significantly. The introductory volume establishes that technique effectively, setting out U.S. comparisons and distinctions as signposts. The introduction notes, for example, “To fully understand the EU, U.S. lawyers must recognize that, whereas the U.S. system is largely hierarchical, the EU system is best envisioned as a network.”²¹

The choice of titles for the remaining volumes—Adjudication, Rulemaking, Judicial Review, Transparency and Data Protection, and Oversight—is itself a valuable window into the powerful comparative nature of this collection. These topics are the main areas of focus in U.S. administrative law and serve well as the organizing concepts for this comparative work.²² As the introduction notes:

Comparing governance institutions and administrative processes in the U.S. and EU is a daunting task. It is daunting even to attempt an analysis of EU administrative law through the accepted categories of U.S. administrative law [T]he reader is nevertheless invited to find guidance and understanding on how

¹⁷ *Id.* at xi–xvi.

¹⁸ *Id.* at xv.

¹⁹ PETER L. LINDSETH ET AL., ADMINISTRATIVE LAW OF THE EUROPEAN UNION: OVERSIGHT, at v (2008).

²⁰ For the various positions that Lindseth held as a member of the journal, see the mastheads of volumes 1 through 6 of COLUM. J. EUR. L., available at <http://cjel.net/masthead/archived-mastheads>.

²¹ INTRODUCTION, *supra* note 1, at 2.

²² *Id.* at xvii, xxxiii–xxxiv. See also Peter L. Strauss et al., GELLHORN & BYSE'S ADMINISTRATIVE LAW: CASES AND COMMENTS, at xix–xxiii (10th ed. 2003) (providing a summary of contents that identifies this leading U.S. administrative law casebook's main topics as adjudication, rulemaking, open government and the Freedom of Information Act, and judicial review, with oversight tucked into various sections of the book).

the EU accomplishes tasks that correspond in some measure to the adjudicatory, rulemaking, judicial review, transparency and data protection, and oversight functions of which U.S. administrative law is customarily understood.²³

When a broad topic in this work is complex and likely to confuse U.S. lawyers, they will know it—the work expressly announces key differences and expected misunderstandings. For example, because the European Union “has no Administrative Procedure Act (APA) to enhance uniformity,”²⁴ there is less consistency from one regulatory sector to the next. Moreover, most EU Member States use an “inquisitorial” system in their civil law traditions, unlike the United States and the United Kingdom, which use common law, so “U.S. lawyers can expect to find themselves somewhat disoriented by EU administrative adjudicative procedures.”²⁵

The work’s contextualization of oversight in the European Union, as compared to that in United States, explains that “principal political authority is organized more diffusely and, not surprisingly, oversight over these institutions is correspondingly more diffuse as well.”²⁶ Beyond merely noting such differences, the work helps those new to EU studies understand the reasons underlying them. In the example noted here, contrasting the “principal political authority”²⁷ that is distributed in the United States between the presidency and Congress but that is more broadly dispersed in the European Union, the editors helpfully characterize the dispersion as “fragmentation”²⁸ and explain that its causes are the coexistence of “international and supranational features”²⁹ of the Union. Such a point may be obvious to, and perhaps even overlooked by, veteran practitioners of EU law, but to U.S. practitioners whose work less frequently—but no less importantly—intersects with the Union, the “international and supranational”³⁰ character of the Union can be easy to overlook. The work deftly offers this bird’s eye view in explaining concepts where it might otherwise be most lost on readers.

The collection maintains that bird’s eye view while not sacrificing detail in identifying and explaining critical differences. Among the significant differences between the U.S. and EU judicial review processes, for example, is the existence in the European Union of the position of *avocat-general* or advocate general. This distinction is among those “distinctive institutions within the Court of Justice”³¹ that this work treats expertly and straightforwardly to quickly educate an unfamiliar reader:

The Court is assisted by a type of judicial officer with no counterpart in the U.S. legal system, the advocates general.

²³ INTRODUCTION, *supra* note 1, at xxxiii–xxxiv.

²⁴ *Id.* at 34.

²⁵ *Id.*

²⁶ *Id.* at xxxi–xxxii.

²⁷ *Id.* at xxxi.

²⁸ *Id.* at xxxii.

²⁹ *Id.*

³⁰ *Id.* at xxxii.

³¹ *Id.* at xxvii.

Advocates general are judicial officers, and they are expected to act with complete impartiality and independence. These judicial officers give their opinion on the case after considering the arguments and the record compiled by the reporter. Their opinion discusses the facts and expounds on the law. Because advocates general are judges, their opinions are part of the judicial deliberation, and hence the parties are given no opportunity to comment on an advocates [sic] general's opinion unless they ask to reopen the case for that purpose. Because the Court's own opinions are so terse, the advocate general's opinion offers the best insight into the various issues in a case.³²

A reader new to EU law comes away from that explanation with a ready understanding of the role of the advocate general in the deliberative process. While one may describe the advocates general as the functional equivalent of *amici* who are part of the court, they are, as the text's explanation makes clear, much more than merely staff *amici*, and their work can play a critical role not only in shaping ECJ decisions but in explaining the rationale of those decisions. This distinction and explanation is but one of many clear, concise nuggets of knowledge tucked in the introductory volume and its companions.

In understanding the functions of the European Union's administrative law and its regulatory bodies, it is critical for American lawyers to understand the philosophies that underpin the Union's existence.³³

EU development is fundamentally affected by an overarching tension between two philosophies. Many insist that it is a *union of nations* and, hence, its organization should be "intergovernmental." Others envision it as ultimately a *union of peoples* of Europe and believe its organization should be state-like or "supranational." This tension runs throughout its development and forms the background for governmental and legal principles.³⁴

Understanding that tension, even at a basic level, can help U.S. lawyers understand the function of the Union and explain otherwise bizarre procedural mechanisms it has in place. That understanding will also help them grasp that the collection "deals only tangentially with the Member States [as states] because U.S. lawyers are unlikely to participate in the EU process directly through a Member State government."³⁵

This volume's comparisons of the U.S. and EU administrative processes seem almost effortless. As a reader moves from concept to concept, the work effectively anticipates when a comparison would be instructive. Reading along through the first volume's section on delegation, for example, a reader familiar with U.S. administrative law and the principle of delegation of authority from Congress to administrative agencies instantly begins comparing the EU principles to his

³² *Id.* at 25.

³³ See INTRODUCTION, *supra* note 1, at 5–6.

³⁴ *Id.* (emphasis added).

³⁵ *Id.* at 6.

recollection of the relevant U.S. case law.³⁶ A mere page turn later, the comparison that the reader had been trying to spin out in his mind appears on the page: “The *Meroni* decision might be seen as the equivalent of *Field v. Clark* in the U.S.’s early years.”³⁷

The overarching principle in this work seems to be to explain the European Union and the concepts filling out its administrative law apparatus and operations as comparable to or distinct from analogues in the U.S. administrative state. The introductory volume succeeds well at implementing that principle, and readers will understand and process the material more easily as a result.

IV. FOLLOWING A MOVING TARGET

Any work on the European Union runs the risk of being outdated upon, or even before, publication. The greatest drawback to such works, including this one, is that they are not self-updating. Despite the relatively recent publication of this collection, the unpredictable nature and pace of the European Union, especially in regard to its adoption and ratification of revised structural treaties, makes it all but impossible for any work to remain absolutely current for long. In particular, the volume’s text often refers to the Treaty of Lisbon in terms of particular expectations. For example, the status of and expected changes from the treaty (ostensibly current at the time the book went to press) are reflected early and often:

On December 13, 2007, the 27 leaders of the current Member States signed . . . the Treaty of Lisbon, which will modify the institutions, processes, and, perhaps, relationship between the EU and the governments of the Member States. It incorporates the most compelling and least controversial aspects of the currently moribund Constitutional Treaty. It will eliminate the pillars and thus end the distinction between the Community and the Union.³⁸

No doubt, if and when the treaty, or some subsequent version of it, is fully ratified and implemented, it will fulfill those expectations. References to the changes pending under the Lisbon Treaty abound in the introductory volume.³⁹ It was apparent, however, even at publication that “[r]atification . . . may involve a long,

³⁶ *Id.*, at 17–18 (explaining the history of delegation in the EU).

³⁷ *Id.* at 18 (citing Case 9/56 *Meroni & Co. v. High Authority of the Eur. Coal & Steel Community*, [1957–58] E.C.R. 133 and Case 10/56, *Meroni & Co. v. High Authority of the Eur. Coal & Steel Community*, [1957–58] E.C.R. 157; and citing *Field v. Clark*, 143 U.S. 649, 692 (1892)).

³⁸ *Id.* at 4 (internal citations and quotation marks omitted).

³⁹ For example, the volume notes that the Lisbon Treaty could significantly change various aspects of the Union, including the EU’s system of judicial review:

it must be emphasized at the outset that the Treaty of Lisbon, signed in December 2007 and *meant to enter into force on January 1, 2009* (if duly ratified by all 27 Member States) would not only bring changes, but bring changes to some of the features of the current system that come in for considerable commentary and criticism in the Judicial Review volume.

INTRODUCTION, *supra* note 1, at xxv (emphasis added). See also *id.* at 14 n.20 (“If ratified the Lisbon Treaty would streamline the Commission to accommodate enlargement”); *id.* at 15 (“The new Lisbon Treaty, if ratified, will establish the High Representative of the Union for Foreign Affairs and Security Policy, served by a bureaucracy called the European External Action Service.”).

drawn-out process.”⁴⁰ The volume nonetheless expresses “hope[] that the new treaty will be ratified by 2009.”⁴¹ That ratification, however, has yet to come. The Czech Republic, Germany, Ireland, and Poland have yet to deposit their ratifications of the treaty⁴²—although the Czech parliament has approved the treaty.⁴³ As Ingolf Pernice explains in this issue, the prospects for the treaty’s success, despite the great need for it, are uncertain.⁴⁴ Following the negative referendum on the treaty in Ireland in June 2008, Pernice notes, “the Treaty of Lisbon was felt to be the most recent and—so far—last incident in a series of failures in European constitutionalism.”⁴⁵

While it is frustrating that this collection, published less than a year ago, is already outdated, at least in terms of the Lisbon Treaty, it is unlikely that any reference work on the European Union, save an electronic one, could keep up with the unexpected twists and turns that come in a body comprised of twenty-seven sovereign states. With that many Member States and several other European states banging at the door for admission, the Union is no longer the relatively more manageable six-nation European Coal and Steel Community (ECSC) that marked the Union’s beginnings almost 60 years ago.⁴⁶

V. MORE THAN ONLY ADMINISTRATIVE LAW

Because of the nature of the European Union as an international and supranational entity,⁴⁷ to understand the Union’s administrative law, one must understand the basics of the Union itself—the documents that give it life; its structure; and its key institutions. This work provides those basics competently and efficiently. As part of the collection’s crash course in “all things EU,” the introductory volume walks readers carefully through the Union’s structural documents,⁴⁸ federalism concepts,⁴⁹ and key institutions,⁵⁰ before delving into the highlights of the remaining volumes.

Among the concepts important to understanding the legal regime in place in the European Union are its notions of federalism and the principles of direct effect and subsidiarity, which the work sets out clearly for readers.⁵¹ The contrast with the U.S. federal system is also important. Unlike the United States, where the Supreme Court has used the U.S. Constitution’s Tenth Amendment anti-commandeering principle to

⁴⁰ INTRODUCTION, *supra* note 1, at 4–5.

⁴¹ *Id.* at 5.

⁴² Council of the European Union, *Agreement Details*, http://www.consilium.europa.eu/cms3_Applications/applications/Accords/details.asp?cmsid=297&id=2007133&lang=EN&doclang=EN (last visited May 16, 2009).

⁴³ See *supra* notes 10–11 and accompanying text.

⁴⁴ See generally Pernice, *supra* note 8 (explaining the status of the Treaty of Lisbon and analyzing prospects and paths forward for constitutionalism in the European Union); see also *supra* notes 9–11 and accompanying text.

⁴⁵ Pernice, *supra* note 8, at 353.

⁴⁶ Europa, *The History of the European Union*, http://europa.eu/abc/history/index_en.htm (last visited Apr. 25, 2009).

⁴⁷ See *supra* notes 28–30 and accompanying text.

⁴⁸ INTRODUCTION, *supra* note 1, at 3–4.

⁴⁹ *Id.* at 5–12.

⁵⁰ *Id.* at 12–21.

⁵¹ *Id.* at 9–12.

bar the federal government, in many respects, from forcing state and local governments to implement federal policies,⁵² “the European system relies on national legislatures and executive officials to implement EU law.”⁵³ The “EU structure *counts on commandeering* state governmental institutions” to implement its policies⁵⁴—even though the European Union lacks a supremacy clause comparable to that in the U.S. Constitution.⁵⁵

The work also addresses key institutions, such as the Member States’ national court systems and their relationship with the EU justice system. Each Member State has its own national court system, adding a layer of complexity to American lawyers’ understanding of the inner workings of EU administrative law, especially in the realm of judicial review.⁵⁶ France, with three court systems, and Germany, with five court systems plus a constitutional court, are offered as important examples.⁵⁷

Moreover, the relationship between EU courts and national courts of its Member States may seem strange to American lawyers, who routinely practice in federal district courts—the U.S. federal trial courts—because “[t]here are no EU local courts, the equivalent to ‘inferior’ U.S. federal courts, and hence Member State courts are an integrated part of the European judicial apparatus.”⁵⁸ U.S. practitioners comfortable practicing in the U.S. state and federal courts are well-equipped to bring their skills to bear on work that intersects with the European Union, but the “getting-to-know-you” process of acquainting themselves with the European Union’s institutions and legal principles could strike some as an overwhelming task. This six-volume collection will help make it somewhat less daunting and help prepare them by connecting the dots between familiar U.S. concepts and drawing distinctions among those that differ significantly.

While American lawyers are surely familiar with the dichotomy between state courts and federal courts in the United States, the complexity is significantly greater in the European Union, with *national* courts complementing EU courts, so the explanation is particularly helpful.

Furthermore, in breaking down the European Union into its basic building blocks, the work sets out the five key institutions in the Union straightforwardly and clarifies the role of each by explaining them in terms of their functions: (1) the Council of the European Union as “final legislative authority,” (2) the European Council as the group of ministers and heads of state from the Member States providing political direction, (3) the European Commission as the principal

⁵² See *New York v. United States*, 505 U.S. 144, 161 (1992) (“Congress may not simply commandeer the legislative processes of the States by directly compelling them to enact and enforce a federal regulatory program”) (internal citations and quotation marks omitted); *Printz v. United States*, 521 U.S. 898, 927–28 (1997) (barring Congress from requiring states’ law enforcement officers from implementing federal policy).

⁵³ INTRODUCTION, *supra* note 1, at 6.

⁵⁴ *Id.* (emphasis added; internal quotation marks omitted).

⁵⁵ *Id.* at 7. See also U.S. CONST. art. VI, cl. 2 (“This Constitution, and the laws of the United States . . . and all treaties made . . . under the authority of the United States, shall be the supreme law of the land.”) (emphasis added).

⁵⁶ INTRODUCTION, *supra* note 1, at 8.

⁵⁷ *Id.*

⁵⁸ *Id.* at 22.

executive and administrative body and the “hub of the EU” in Brussels, (4) the European Parliament as the directly elected entity within the legislative function, and (5) the European Court of Justice in the judicial role.⁵⁹ This section of the introduction offers a clear explanation of each of the institutions, without which a lawyer new to EU administrative law cannot possibly hope to competently, let alone effectively, practice.

The explanation of the European Parliament⁶⁰ will be particularly helpful to American lawyers steeped in the U.S. constitutional tradition of Congress, the legislative branch, being an entity at least equally powerful to the executive and judicial branches, if not more so, and revered in the framing document itself through its placement in the Constitution’s first article.⁶¹ The European Parliament, as this volume explains, is but one of the European Union’s *three* legislative institutions, along with the Commission and the Council of the European Union.⁶² Among the three bodies with some role in the European Union’s complex legislative process, the Parliament actually “has the least power.”⁶³

VI. CONCLUSION

U.S. lawyers who expect their practices to somehow cross paths with the European Union and its administrative functions should take it from the experts who wrote and edited this collection: expect disorientation upon first entering the system.⁶⁴ But with this work as a background resource and handy reference, at least practitioners will know to expect the disorientation, and the collection’s comprehensive content should help take some of the edge off of it.

Editors Bermann, Koch, and O’Reilly have, with their all-star team of authors, developed a valuable practice guide and reference for American lawyers and students who, as the work itself notes, must be increasingly savvy about the European Union’s inner workings. As transatlantic practice grows, especially in administrative law issues, globalization continues, and the economic and political fates of the United States and its European friends are increasingly and inextricably intertwined.⁶⁵ “[I]t is simply impossible for citizens and business on either side of the Atlantic to disregard this growing interrelationship.”⁶⁶

⁵⁹ *Id.* at 12–16.

⁶⁰ *Id.* at 15–16.

⁶¹ *See* U.S. CONST. art. I.

⁶² INTRODUCTION, *supra* note 1, at 15.

⁶³ *Id.*

⁶⁴ *See id.* at 34.

⁶⁵ *See* INTRODUCTION, *supra* note 1, at 2 (noting the close relationship between the United States and all iterations of the community that is now the EU and suggesting “the two have become ever closer partners”).

⁶⁶ *Id.*