EC Company Law, Vanessa Edwards, Clarendon Press 1999

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The European Council and Commission issues directive orders regulating every member nation of the European Union. The Commission must often proceed carefully, not only to protect national sovereignty, but also to allow the members to come to a consensus on which rules prevail in a conflict between existing members' laws. Vanessa Edward's EC Company Law examines this long, often painstaking, process of enacting, harmonizing, and implementing directive orders that affect corporate law.

The book's strength lies in its detailed analysis of the directives. Most of the book focuses on describing the directives and the political events surrounding their adoption and implementation. For example, entire chapters explain directives regulating the disclosure of information, maintenance of capital, valuation rules, consolidation, and auditing. Each discussion includes an overview of the directive's goal, the debate surrounding its adoption, and its scope. Edwards also analyzes the regulation's implementation in the member countries, although there is a particular focus on the subsequent legislation and debates in the United Kingdom.

The first major historical debate described by Edwards provides an example of the book's approach. Article 54(3)(g) of the Rome Treaty gives the European Council and Commission the power to carry out their duties "by coordination to the necessary extent" with the laws of the member nations. During the 1960s, significant disagreement existed over the scope of this authority. Those arguing for a narrow interpretation claimed that it only authorized legislative intervention if necessary to "cure" discriminatory national rules. Under this view, the Commission would not have the power, for example, to mandate certain companies in the member countries disclose certain financial information. Rather, this interpretation would give the Commission the power to demand repeal of standards which favored domestic businesses. Had the narrow view won the day, Edwards argues, Europe's company law may have remained fragmented for decades. But slowly, a broader interpretation emerged, legitimizing the Commission's authority over almost every area of company law.

Over the next thirty years, the Council passed a number of directives affecting company law. Originally, the directives were envisioned as broad ends-based goals. Member nations had considerable latitude in how they could carry out these goals. If, for example, the E.U. wanted a certain level of disclosure of financial details from corporations, the member nation could adopt whatever legislation it wished, so long as it complied with the end-goal of the directive. However, as time went on, the goals of some of the directives became more rigid and explicit. The rationale for more explicit goals was that if member countries were to legislate "toothless" rules for their
corporations with limited enforcement and limited penalties, then the E.U. would forego the gain from harmonization.

Anecdotal evidence shows that implementation has been difficult, in large part because the Commission lacks resources. Consider Edwards's example of the case of the Unit for Company Law, Industrial Democracy, and Accounting Standards. The unit had the responsibility of enforcing more than 100 national laws implementing directives for the entire E.U., which in 1992 comprised twelve member nations with nine official languages. The staff of this important committee consisted of only three lawyers and three accountants. When a prominent academic suggested that the Unit commission independent studies in each country describing the extent of implementation in that nation, a staff member replied: "Do you realize that our budget is less than that of the Hampshire County Council?"

EC Company Law suffers from being written for a diverse readership. For example, those interested in policy issues might find an argument for providing more oversight funding interesting. However, Edwards only recounts anecdotes such as the one above and does not develop a cohesive argument for further funding. At the same time, the book does not completely address the needs of the practitioner, who has less use for the policy arguments. Practitioners will probably find the book's detailed analysis of the directives themselves useful such as required information disclosure and ultra-vires law in the UK. However, the same practitioners may also wish that Edwards had treated the legal issues more in depth.

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Class of 2001