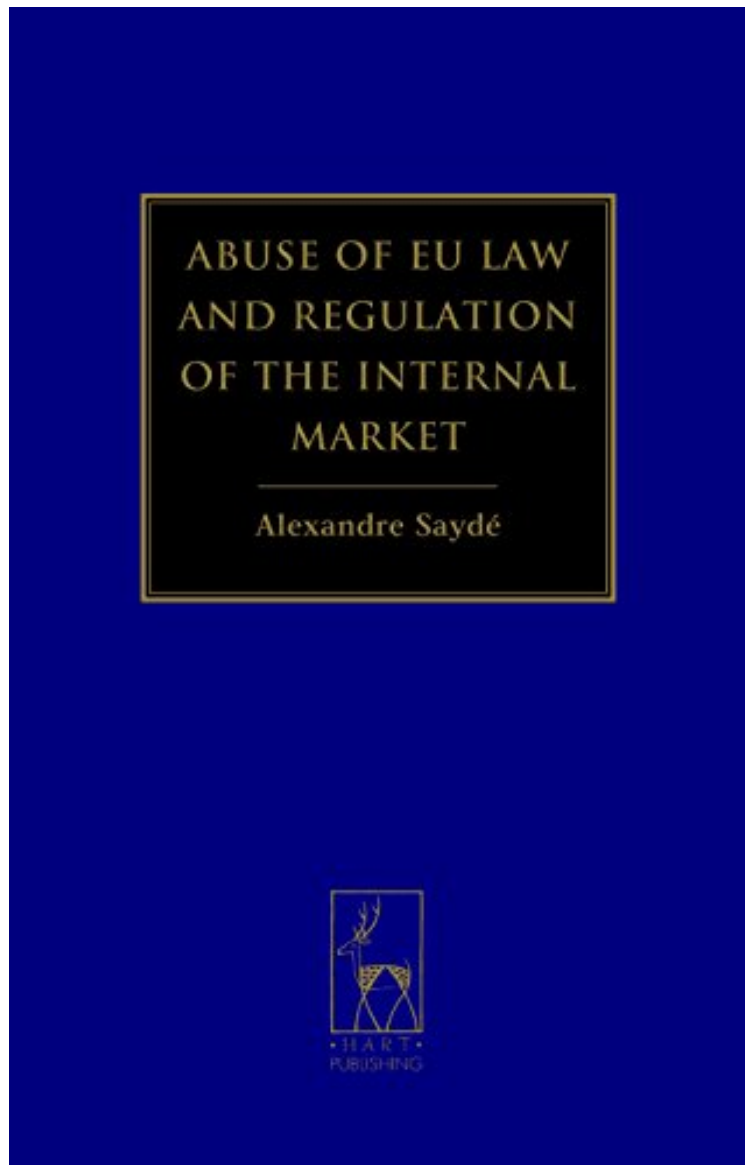


(Mobile book) Abuse of EU Law and Regulation of the Internal Market

Abuse of EU Law and Regulation of the Internal Market

Von Alexandre Sayd

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Von Alexandre Sayd : Abuse of EU Law and Regulation of the Internal Market before purchasing it in order to gauge whether or not it would be worth my time, and all praised Abuse of EU Law and Regulation of the Internal Market:

Kundenrezensionen Hilfreichste Kundenrezensionen 0 von 0 Kunden fanden die folgende Rezension hilfreich. The fundamental debate.... Von Phillip Taylor MBETHE FUNDAMENTAL DEBATE ON EU LAW A VALUABLE

CONTRIBUTION TO THE RESEARCH An appreciation by Phillip Taylor MBE and Elizabeth Taylor of Richmond Green Chambers If you are reading this, you are probably a lawyer and therefore less likely to be confused by the initial wording of this title: Abuse of EU Law But if you're not, then you will, or you might. Abuse of whatever law, namely in the context of European Union law, generally refers to instances where the law, which usually emanates from a directive or treaty, is deemed to be so obstructive, obscurantist, obfuscatory or just plain daft, that human nature being what it is, some people (especially in the United Kingdom), will go to rather creative lengths to flout it, or get round it in some way, either for fun or profit, or both. Writing in the Foreword to this thought-provoking book, Sir Konrad Schiemann, who from 2004 to 2012 was a judge at the Court of Justice of the EU, offers an example of such abuses of a law -- in this case a prosecution under English law some forty years ago for selling a writing desk on a Sunday. As it was illegal at that time to sell furniture on the Sabbath but not vegetables, the seller advertised his supply of carrots for 200 each with a writing desk thrown in for free. (Creative or what?) At the Magistrates Court (we assume) the seller was acquitted, but on appeal, convicted. Yes, he had abused the then existing law, but was he morally wrong? You decide. The resulting controversies generated by thousands of such examples of abuse really do provide a fertile source of debate across the European Union for those jurisprudentially inclined. This book by Alexandre Sayde, will add fuel to the flames of argument on both sides and good thing too, for the issues raised are serious. Published recently by Hart Publishing, the book is based on a thesis which in 2013, won the First Edition of the European Law Faculties Association Award for (an) Outstanding Doctoral Thesis. In it, Sayde has identified three major fault lines on which EU law is located and which account, he says, for the well established controversies in the field. These are explained in detail in this thoughtful and scholarly work, particularly the third and final fault line which points up the tension between the fear of public power and the fear of private power. Those who fear the former (i.e. state control) will tend to reject efforts to prosecute or persecute those who are inclined to flout it. Those who fear the power of the private sector will naturally wish to prohibit abuses of any law relating to it. The subject matter of the book, says Sayde, offers a forum in which the nature and function of EU law can be confronted and examined in a new light. As such, the book makes an important and valuable contribution to the study and interpretation of EU law. Every academic or practitioner involved in this area of enquiry and debate should have a copy.

Kurzbeschreibung How can the concept of abuse of European Union law which can be defined as undesirable choice of law artificially made by a private citizen generate so much disagreement among equally intelligent individuals? Seeking to transcend the classical debate between its supporters and adversaries, the present study submits that the concept of abuse of EU law is located on three major fault-lines of EU law, which accounts for the well-established controversies in the field. The first fault-line, which is common to all legal orders, opposes legal congruence (the tendency to yield equitable legal outcomes) to legal certainty (the tendency to yield predictable legal outcomes). Partisans of legal congruence tend to advocate the prohibition of abuses of law, whereas partisans of legal certainty tend to oppose it. The second fault-line is specific to EU law and divides two conceptions of the regulation of the internal market. If economic integration is conceived as the promotion of cross-border competition among private businesses (the paradigm of 'regulatory neutrality'), choices of law must be proscribed as abusive, for they distort business competition. But if economic integration is intended to promote competition among Member States (the paradigm of 'regulatory competition'), choices of law by EU citizens represent a desirable process of arbitrage among national laws. The third and final fault-line corresponds to the tension between two orientations of the economic constitution of the European Union, namely the fear of private power and the fear of public power. Those who fear private power most tend to endorse the prohibition of abuses of law, whereas those who fear public power most tend to reject it. Seen in this way, the concept of abuse of EU law offers a forum in which fundamental questions about the nature and function of EU law can be confronted and examined in a new light. In May 2013, the thesis that this book was based on won the First Edition of the European Law Faculties Association Award for Outstanding Doctoral Thesis. Pressestimmen...the book makes an important and valuable contribution to the study and interpretation of EU law. Every academic or practitioner involved in this area of enquiry and debate should have a copy. -- Phillip Taylor MBE and Elizabeth Taylor of Richmond Green Chambers ...a must-read for every academic or practitioner involved in the study or interpretation of European Union Law. -- Annekatrien Lenaerts * Common Market Law

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