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From the Selected Works of Darla W. Jackson

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Access to Information in the European Union: A Comparative Analysis of EC and Member State Legislation (Book Review)

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Pridemore has divided the book into three sections. The first section, on law, provides an overview of the new Russian state structure, including chapters on the federal legislature and its political parties, the Presidency, the judiciary, and the recently revised Criminal Procedure Code. These chapters provide the framework for the remaining two sections on crime and the response of the criminal justice system. The second section, on crime, contains a vast amount of information about the nature of the Russian clan state, patterns of violent crime, and the new problems of human trafficking and illegal drug trade. The final section, on the criminal justice system, reflects on the government's response to the skyrocketing HIV/AIDS population, juvenile crime, police abuses, and the antiquated correctional system. The book also contains detailed bibliographic references, a topical index, and information about each of the contributors. Its table of contents is available online at <http://www.rowmanlittlefield.com>.

Professor Pridemore's conclusion, "Whither Russia: Transition or Turmoil?" summarizes a theme common to all the essays, which is that the criminal justice system is in fact teetering between transition and turmoil. While it is too soon to foretell the ultimate outcome of Russia's most recent revolution, Professor Pridemore concludes that "[t]he contributors' outlooks for the future in their respective areas are not positive." This book provides an excellent resource for understanding the changes occurring now, and those likely to occur over the next several years, in the Russian criminal justice system.

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Access to Information in the European Union: A Comparative Analysis of EC and Member State Legislation. By H. Kranenborg and W. Voermans. Groningen, The Netherlands: Europa Law Publishing, 2005. Pp. 129. ISBN: 9076871469. €36.00, US\$65.00.

Access to Information in the European Union: A Comparative Analysis of EC and Member State Legislation is, as the title implies, a survey of the national legislation of EU member states regarding access to information. However, as the authors, Kranenborg and Voermans, state in the preface to the book, a second and "more academic" aim of the book is to "assess what conclusions can be drawn from the comparison of the EC and member state legislation." In relation to this second aim, the authors promise

to address two questions: Are there any general differences between the “old” and the “new” member states? And secondly, is the EU more or less transparent than the “average” member state?

The book is divided into three parts in an attempt to fulfill these aims. In Part I, the authors concisely (in only three pages) provide an introduction to the work. The introduction discusses the methodology and scope of the research as well as the terminology and structure of the book. Part II of the book contains a limited comparative analysis of the EU and member states’ legislation. Part III, which constitutes ninety-nine of the one-hundred and twenty-nine pages of the book, provides the survey of EU and member state legislation. In the survey, the authors attempt to identify the legislation and describe its scope as well as to address exceptions to free access, procedural rules and institutional structures involved in accessing information, and legal or administrative remedies available to contest denial of access.

Although Part III, containing the survey information, is the lengthiest part of the book, for a number of reasons it nonetheless falls short of providing an adequate survey. First, the authors fail to include in the survey information regarding two EU member states, Luxembourg and Cyprus. The reason that information about these two states is omitted is initially unclear. The authors do state that Malta is one of three nations without legislation in the field of access to information; however, they do not disclose the names of the other two states. Only upon a visit to the electronic version of the survey, is it stated, “[o]f Cyprus and Luxembourg no legislation on access to information is known.”¹

Further, the survey is incomplete because it is too limited in scope. The scope of the study did not include examination of legislation pertaining to either environmental or personal information. A complete picture of a state’s commitment to transparency cannot be developed absent an examination of these two essential components of access. Both Luxembourg and Cyprus have legislation pertaining to personal data.² If indeed these two states were omitted from the survey because they did not have legislation regarding access, a more inclusive definition of the types of legislation that affect access would likely have resulted in inclusion of information on these two states. Similarly, national implementing legislation regarding human rights is not addressed by the survey. The authors do briefly discuss human rights in regards to Malta. The survey of Maltese law specifically mentions the

¹ Universiteit Leiden, Transparency in Europe,
<http://www.transparencyineurope.leidenuniv.nl/index.php3?m=3&c=5&garb=0.321925627859382&session=>

²For instance both states have laws regulating the processing of personal data. Links to those laws are provided by the European Commission at
http://ec.europa.eu/justice_home/fsj/privacy/law/implementation_en.htm

European Convention Act of 1987 that implements the European Convention on Human Rights and Fundamental Freedoms. Thus, it is apparent that the authors recognize the influence of human rights on access legislation; however, they have so limited the scope of the survey that it does not permit the authors to provide an adequate picture of the environment regarding access within individual nations.

An alternative publication for those interested in the Human Rights component of access to information is *Human Rights in the Global Information Society*. This title, edited by Rikke Frank Jørgenson, is not only more recent, it also discusses both the legislation and application of access laws with a worldwide emphasis. Further, in David Banisar's contribution to *Human Rights in the Global Information Society*, Banisar references another web-based work to which he has contributed.³ This work, available at <http://www.freedominfo.org/>, is a survey of national laws of sixty-five states, although unfortunately neither Luxembourg nor Cyprus is included. This web-based survey is also significantly more inclusive than Kranenborg and Voermans', taking into account environmental, personal data, criminal, and human rights legislation. Additionally, Banisar's survey appears to be updated on an annual basis to ensure that it does not become obsolete.

As previously mentioned, Kranenborg and Voermans have similarly placed Part III of their book on the web. The web version of Part III states that hyperlinks are provided to European and national legislation and to other web-based literature. These hyperlink references are said to have been accurate as of May 2005. However, there is no indication that the authors plan to update the resource when new legislation is enacted. Nor is there evidence that the hyperlinks provided will be updated. In fact, some of the hyperlinks have already become inactive. As a result, it is likely that the Kranenborg and Voermans site will quickly become obsolete.

Finally, the Kranenborg and Voermans survey appears to be incomplete, because some prominent legislation may not have been identified. The authors readily admit that because they could not "in most cases ... delve into national practice" they "probably did not always succeed in pinpointing the most prominent provisions."

The circumstances under which this book was prepared suggest that time may have been a factor that influenced the researchers to accept a less than fully complete survey. The authors explain that the work was "commissioned" in September 2004 and had to be completed prior to the EU Conference on Transparency in Europe II that was held in November 2004.

³ David Banisar, *The Right to Information in the Age of Information*, in *Human Rights in the Global Information Society* 86 (Rikke Frank Jørgenson ed., 2006), citing to Freedominfo.org, <http://www.freedominfo.org>

As a result, the authors characterize the publication only as an "initial inventory" and invite readers to send comments and suggestions to improve the research.

In regards to the second aim of making comparisons and drawing conclusions, it is difficult to accomplish such a task without complete information. In a somewhat apologetic tone, the authors appear to recognize that the incomplete survey of legislation is not an adequate basis on which to draw reliable conclusions. For example, they write, "[c]ase law on the practical application of the law is generally not accessible in English. Additionally, and in many cases statistical facts are not obtainable. For these reasons the survey and analysis with regard to Member States are theoretical in nature. Naturally, that effectiveness of access to information laws can only be determined through their practical application."⁴

Apparently prompted, in part, by their previous promise to answer specific questions, and notwithstanding the difficulty caused by the incomplete information, the authors nonetheless make an attempt at providing some meaningful analysis and conclusions. However, additional difficulties contribute to the authors' lack of success in providing meaningful analysis. First, the authors fail to fully define the terms of their inquiry. While the work purports to draw distinctions between "old" and "new" states, the authors do not, in either the terminology section of Part I or in the two and one-half pages of the concluding observations of Part II, explain how states were categorized as "old" and "new" for purposes of the analysis. As a result, readers are left to their own assumptions that "old" states include the original six founding countries (Belgium, France, Germany, Italy, Luxembourg, and the Netherlands) as well as those states that became members between 1973 and 1995. Similarly, a reasonable assumption is that the "new states" are those ten accession countries that joined the EU in 2004. Given that the work was initially prepared to assist Conference attendees, perhaps the authors assumed that this sophisticated audience would make assumptions similar to their own.

Additionally the authors conclude that perhaps "the only possible conclusion is that at a general level these laws are predominantly similar." Rather than making further specific analysis, the authors instead refer to an interesting overview of the three perceived traditions of access to information posed by the Estonian representative to the EU Conference on Transparency in Europe II, the conference for which the publication was initially prepared.

⁴ The survey information for some states does include links to NGOs that are monitoring the practical application of the laws. For instance, information is provided regarding NGOs that monitor application in Latvia and the United Kingdom are provided.

While I found this brief discussion interesting, it does not substitute for a conclusion by the authors. Similarly, the authors' conclusions regarding the comparison of EU transparency with the "average member state" is also somewhat disappointing. With scant rationale, the authors conclude that if placed in a ranking of transparency with the EU member states, the EU would be ranked somewhere in the middle.

Given the incomplete and limited nature of the survey, which constitutes a majority of the book, as well as the fact that the survey is available online, it is difficult to conceive what type of library might desire to include the reviewed publication in its collection. The limited nature of the analysis further restricts the usefulness of the publication. Further, the availability of more current and expansive information on the topic from other sources limits the usefulness of this text. Perhaps those interested in maintaining a comprehensive collection, including historical information on the topic of access to information within the specific geographic region encompassed by the European Union would find acquisition of the text to be worthwhile.⁵

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Law in the War on International Terrorism. Edited By Ved P. Nanda.
Ardsley NY: Transnational Publishers, 2005. Pp. xiv, 288. ISBN 1-57105-319-0. US\$115.00

In the post-September 11th world, the war on terrorism has become an important topic of discussion and analysis. Terrorism and the measures taken by nations to combat it comprise a multi-faceted subject that can be examined from a variety of perspectives. *Law in the War on International Terrorism* explores the topic from a legal point of view. Stemming from a conference on international terrorism held by the University of Denver's International Legal Studies Program, this book is an edited volume with chapters written by law professors and practicing attorneys. It delves into many aspects of the subject in order to "provide a comprehensive and insightful analysis of the pertinent

⁵ Perhaps there are a number of libraries that include this type of collection. According to the OCLC World Catalog over eighty-five libraries worldwide have included this book in their collections.