

Bingham Centre Event: A More Literal and Predictable Approach for the Court of Justice of the EU?

Opening Remarks

It is particularly appropriate that the Bingham Centre for the Rule of Law should be discussing the CJEU. Like charity, concern for the rule of law should begin at home. The European Union is home. I put the proposal for an event to the Centre and they accepted with speed and willingness.

Clarity and predictability are features of the rule of law strongly emphasised by Lord Bingham. Concern for the clarity and predictability of CJEU case law will emerge very clearly from what the speakers have to say. I need not say more than they do - only that they will talk particularly from a British point of view. This is not just a British concern. It is worth recalling that many continental jurists have expressed concern. If I could refer to just one recent instance - a keynote speech was given by Judge Dahl, the then president of the Danish Supreme Court, at the opening of the FIDE Congress in Copenhagen last year. FIDE, the International Federation for European Law, brings together at its meetings lawyers from all over Europe and elsewhere to discuss European law. Judge Dahl referred to the position of Denmark as the number one on various worldwide rule of law indices, of which he was justly proud. He went on to say that he had to "admit that over the years the development of law through the practice of the European Court of Justice has gone beyond the limitations drawn by the notion of legal foreseeability and certainty under Danish law." It was something that very clearly worried him, as it should.

I am grateful to the Bingham Centre for putting on this event. I am also most grateful to the panellists and Lord Mance for being here. Lectures and judgements given by, in particular, Lord Mance have spurred me on. The panellists for their part have provided excellent and fascinating papers and I look forward to a stimulating set of presentations and to the discussion to follow.

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Graham Child was a practising solicitor and partner at Slaughter and May, London negotiating and advising on contracts particularly from an EU law point of view and involved with litigation before the EU Court and Commission. He was co-author with Christopher Bellamy of the early editions of Bellamy and Child, EU law of competition. Subsequently he taught competition law in the law faculty at Oxford University and, as a visiting professor, in the University of Paris. He continues as a Fellow of Lincoln College, Oxford. He was a stagiaire in the legal Service of the Commission in the early part of his career and later a stagiaire in the cabinet of Judge Edward at the CJEU.