

European Union Law

The European Union has existed for over half a century; and European law has come to influence almost all fields of national law, including administrative law, constitutional law, contract law, criminal law and even tort law.

But what is the European Union? How does it work, and how does it produce European law? Written with exceptional clarity, *European Union Law* offers a classic textbook for students and practitioners of European law alike. Using a clear framework, it guides readers through all the core constitutional and substantive topics of EU law. Extracts from classic case law are complemented with extensive and critical discussion of the theoretical and practical aspects of the European Union and its law. Chapters are enriched with almost 150 colour figures and tables, which clarify complex topics and illustrate relationships and processes. Suggestions for further reading direct students to significant pieces of the academic literature for deeper self-study, and a companion website with full ‘Lisbonised’ versions of the cases cited in the text completes the learning package.

New to this Second Edition:

- A Brexit chapter covers the negotiation process and the possible future relationship between the United Kingdom and the European Union.
- A new section on EU private international law and EU criminal law has been added.
- The sections on delegated legislation, human rights and the free movement of persons have been significantly extended.
- The discussions of the case law have been increased, with all chapters aiming to reflect the judicial and legislative practice as at 31 December 2017.

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European Union Law

Second Edition

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For my students – past and present

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Preface

European Union law is a complex subject, whose constant change and expansion makes it hard to pin down. This is my personal attempt to do so. Most existing European Union law books still suffer – I believe – from three defects: two with regard to their form, and one with regard to their substance.

First, in the face of significant changes in the structural and normative set up of the Union, why do most traditional textbooks still adhere to a syllabus arrangement that was formed in the 1970s and 1980s? This is particularly striking for the constitutional part, where – even in the best of textbooks – I find no clear rationale behind the particular order of chapters.

Second, almost all British textbooks appear to be written as if the European Treaties – the primary sources of all Union law – hardly existed. There is no guidance on how to read the Treaties, and it often seems that a Treaty provision only ‘comes into existence’ when the European Courts refer to it in a case. (Legal realism, yes, but legal reality must surely extend to the Treaties and Union legislation?) So strong is the Court-centricity of many a common law author that they seem to forget that the Treaties and all Union legislation offer a text and a structure with its own logic (and faults), and that the Court will primarily address them as an interpreter – not as ‘the’ creator of European law.

Third, and with regard to substance, why do most EU law textbooks still not contain a discussion of what the Union is? And how can a European Union law textbook not deal – at least briefly – with the common agricultural policy or regional policy? Together both represent almost three-quarters of the Union budget and play a particular role in the social and legal ‘reality’ of EU citizens. What would we say of a contract law textbook that did not say what a contract is and did not deal with sales contracts?

A textbook should be a compass through the most important theories and realities of the law; and this book tries to be such a compass for EU law. It has arranged the mass of EU legislation and jurisprudence in three parts. Part I deals with the ‘Constitutional Foundations’ of the Union legal order. Part II analyses how the Union adopts and enforces secondary Union law, while Part III explores the internal market as well as some of the most important substantive Union policies.

This second edition of *European Union Law* comes at a time of deep uncertainty – especially with regard to the United Kingdom’s decision to withdraw from the European Union. A special chapter at the end of the book tries to explain the past, present and future of the British exit (‘Brexit’) decision (see Chapter 19). Yet nothing is certain here, especially with regard to the future

EU–UK relationship; and only a later edition may retrospectively offer more clarity on this point. A third edition is planned for early 2020 and will therefore come at a time when the United Kingdom will (probably) already have left the European Union.

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- Council Directive 64/221/EEC of 25 February 1964 on the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health, [1963–1964] OJ English Special Edition 117 96
- Commission Directive 70/50/EEC of 22 December 1969 based on the provisions of Article 33(7), on the abolition of measures which have an effect equivalent to quantitative restrictions on imports and are not covered by other provisions adopted in pursuance of the EEC Treaty, [1970] OJ L 13/29 520–1, 522, 523, 524, 571–2
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- Council Directive 70/220/EEC of 20 March 1970 on the approximation of the laws of the Member States relating to measures to be taken against air pollution by gases from positive-ignition engines of motor vehicles, [1970] OJ 76/1 570

- Council Directive 73/173/EEC of 4 June 1973 on the approximation of Member States' laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous preparations (solvents), [1973] OJ L 189/7, 140, 572
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- Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees, [1999] OJ L 171/12 817–18
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177	161	130d	219	111(1),(3),(5)	109(1),(3),(5)
178	162	130e	220	302,303,304	229,230,231
179	163	130f	221		
180	164	130g	222		
181	165	130h	223	190(4),(5)	138(3)
182	166	130i	224	191(2)	138(3)
183	167	130j	225	192(2)	138b
184	168	130k	226	193	138c
185	169	130l	227	194	138d
186	170	130m	228	195	138e
187	171	130n	229	196	139
188	172	130o	230	197(2)–(4)	140
189			231	198	141
190	173	130p	232	199	142
191	174	130r	233	200	143
192	175	130s	234	201	144
193	176	130t	235		
194			236		
195			237	204	147
196			238	205(1),(3)	148(1),(3)
197			239	206	150
198	182	131	240	207	151
199	183	132	241	208	152
200	184	133	242	209	153
201	185	134	243	210	154
202	186	135	244		
203	187	136	245	213	157
204	188	136a	246	215	159
205			247	216	160
206	131	110	248	217(2)	161
207	133	113	249	218(2)	162(2)
208	177/178	130u/130v	250	219	163

c Table of Equivalents

Lisbon	Amsterdam	Pre-Amsterdam	Lisbon	Amsterdam	Pre-Amsterdam
251	221(2),(3)	165	293	250	189a
252	222	166	294	251	189b
253	223	167	295		
254	224	168	296	253	190
255			297	254	191
256	225	168a	298		
257	225a	168a	299	256	192
258	226	169	300	257/258/263	193/194/198a
259	227	170	301	258(1),(2),(4)	194(1),(2),(4)
260	228	171	302	259	195
261	229	172	303	260	196
262	229a	172	304	262	198
263	230	173	305	263(2),(3),(4)	198a(2),(3),(4)
264	231	174	306	264	198b
265	232	175	307	265	198c
266	233	176	308	266	198d
267	234	177	309	267	198e
268	235	178	310	268/270	199/201a
269			311	269	200
270	236	179	312		
271	237	180	313	272(1)	203
272	238	181	314	272(2–10)	203
273	239	182	315	273	204
274	240	183	316	271	202
275			317	274	205
276			318	275	205a
277	241	184	319	276	206
278	242	185	320	277	207
279	243	186	321	278	208
280	244	187	322	279	209
281	245	188	323		
282	8	4a	324		
283	112	109a	325	280	210
284	113	109b	326		
285	246	188a	327		
286	247	188b	328		
287	248	188c	329		
288	249	189	330		
289			331		
290	202	145	332		
291	202	145	333		
292			334		

Lisbon	Amsterdam	Pre-Amsterdam	Lisbon	Amsterdam	Pre-Amsterdam
335	282	211	347	297	224
336	283	212	348	298	225
337	284	213	349	299(2)–(4)	227
338	285	213a	350	306	233
339	287	214	351	307	234
340	288	215	352	308	235
341	289	216	353		
342	290	217	354	309	236
343	291	218	355	299(2)–(6)	227
344	292	219	356	312	240
345	295	222	357	313	247
346	296	223	358		

Abbreviations

AFSJ	Area of Freedom, Security and Justice
AJIL	<i>American Journal of International Law</i>
BYIL	<i>British Yearbook of International Law</i>
CAP	Common Agricultural Policy
CCP	Common Commercial Policy
CDE	<i>Cahiers de droit européen</i>
CEE	charges having equivalent effect
CFSP	Common Foreign and Security Policy
<i>CML Rev.</i>	<i>Common Market Law Review</i>
CMO	Common Market Organisation
CoA	Court of Auditors
Coreper	Committee of Permanent Representatives
COSI	Standing Committee on Internal Security
CPR	Common Provisions Regulation
CSDP	Common Security and Defence Policy
CSF	Common Strategic Framework
CST	Civil Service Tribunal
CT	Constitutional Treaty
CYELS	<i>Cambridge Yearbook of European Legal Studies</i>
DCI	Development Cooperation Instrument
DG	Directorate-General
EBA	Everything but Arms
EC	European Community [Treaty]
ECB	European Central Bank
ECHR	European Convention on Human Rights
ECJ	European Court of Justice
ECLR	<i>European Competition Law Review</i>
ECN	European Competition Network
ECOFIN	Council of Ministers for Economics and Finance
ECOWAS	Economic Community of West African States
ECR	European Court Reports
ECSC	European Coal and Steel Community
ECtHR	European Court of Human Rights
EDC	European Defence Community
EEA	European Economic Area
EEAS	European External Action Service
EEC	European Economic Community [Treaty]
EFC	Economic and Financial Committee
EFSM	European Financial Stability Mechanism

EFTA	European Free Trade Association
EHRR	European Human Rights Report
EJIL	<i>European Journal of International Law</i>
ELJ	<i>European Law Journal</i>
<i>EL Rev.</i>	<i>European Law Review</i>
EMU	European Monetary Union
ENP	European Neighbourhood Policy
EPA	Economic Partnership Agreement
EPC	European Political Cooperation
ERDF	European Regional and Development Fund
ESCB	European System of Central Banks
ESM	European Stability Mechanism
EU (old)	European Union (Maastricht) Treaty
EUMR	EU Merger Regulation
<i>EuR</i>	<i>Europarecht</i>
Euratom	European Atomic Energy Community
FYRM	Former Yugoslav Republic of Macedonia
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GBER	General Block Exemption Regulation
GC	General Court
GDP	Gross Domestic Product
GSP	Generalised System of Preferences
HA	Humanitarian Aid
ICJ	International Court of Justice
ICLQ	<i>International and Comparative Law Quarterly</i>
IGC	Intergovernmental Conference
ILO	International Labour Organization
JHA	Justice and Home Affairs
LDCs	least developed countries
MEEQRs	measures having an equivalent effect to quantitative restrictions
MEP	Member of the European Parliament
MFN	most favoured nation
MLR	<i>Modern Law Review</i>
MoU	memorandum of understanding
NATO	North Atlantic Treaty Organization
NCA	national competition authority
NCB	National Central Bank
OCT	Overseas Countries and Territories
OECD	Organisation for Economic Co-operation and Development
OEEC	Organisation for European Economic Co-operation
OJ	<i>Official Journal of the European Union</i>
OMC	Open Method of Coordination
PJCC	Police and Judicial Cooperation in Criminal Matters
PSC	Political and Security Committee

QMV	qualified majority voting
RTDE	<i>Revue trimestrielle de droit européen</i>
SEA	Single European Act
SGEI	Services of General Economic Interest
SGP	Stability and Growth Pact
TA	Treaty of Amsterdam
TC	Technical Cooperation
TEC	Treaty establishing the European Community
TEU	Treaty on European Union (post Lisbon)
TFEU	Treaty on the Functioning of the European Union
TN	Treaty of Nice
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
TSCG	Treaty on Stability, Coordination and Governance in the Economic and Monetary Union
UN	United Nations
US	United States
VAT	value added tax
WEU	Western European Union
WTO	World Trade Organization
<i>Yale LJ</i>	<i>Yale Law Journal</i>
YEL	<i>Yearbook of European Law</i>

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