

The Law of the European Union

SECOND EDITION

Alain A. Levasseur

HERMANN MOYSE SENIOR PROFESSOR OF LAW,
DIRECTOR, EUROPEAN STUDIES
LOUISIANA STATE UNIVERSITY PAUL M. HEBERT LAW CENTER

Richard F. Scott

DISTINGUISHED PROFESSOR OF INTERNATIONAL LAW,
THOMAS JEFFERSON SCHOOL OF LAW

Arnaud Raynouard

PROFESSOR, UNIVERSITÉ PARIS-DAUPHINE

Christine A. Corcos

ASSOCIATE PROFESSOR OF LAW AND AN ASSOCIATE PROFESSOR OF
WOMEN'S AND GENDER STUDIES,
LOUISIANA STATE UNIVERSITY LAW CENTER

Joël Monéger

PROFESSOR OF LAW, UNIVERSITÉ PARIS-DAUPHINE

Jean-Claude Piris

FORMER LEGAL COUNSEL, DIRECTOR GENERAL,
EUROPEAN UNION LEGAL SERVICE



CAROLINA ACADEMIC PRESS
Durham, North Carolina

Copyright © 2013
Carolina Academic Press
All Rights Reserved

ISBN 978-1-59460-899-5
LCCN 2012950550

Carolina Academic Press
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

Dedications

To my beloved petits-enfants: Francis, Gabriel, John Paul, Bridget, Peter Daniel, Libby Kate, Mary Benton, and Helen Quinn – Alain Levasseur

For my wife Lorraine, our children Karen, Jeffrey and Holly, and our grandchildren Chelsea, Michael and Paul, with love and admiration – Richard Scott

For Cullen and Avery – Christine Corcos

Summary of Contents

Foreword	lxvii
Acknowledgements	lxx
Table of Cases	lxv
Table of European Court of Justice and Court of First Instance Cases	
Abbreviations	
Part I · The Law of the European Union: A New Constitutional Order	
Chapter One · History: Europe in Search of Its Identity	3
Section 1: The Search for Europe and European Unification	3
Section 2: Europe “Awakens”: 1947–1958	6
Section 3: Europe “Matures”: 1959–1973	7
Section 4: Europe “Unites”: 1974–1993	8
Section 5: The European Union: 1993–2010	9
Section 6: The EU of Lisbon: 2010–20__	11
Section 7: What Europe?	12
Chapter Two · The Lisbon Treaty — The TEU — The TFEU: Structure — Constitutional Principles and Powers — Legal Nature	15
Section 1: The European Union: An Overview	16
Section 2: Constitutional Principles and Distribution of Powers	33
Section 3: The EU Jurisdiction/Competence Ratione Loci,	
Section 4: The TEU & TFEU: A Constitution?	69
Chapter Three · Institutional Framework of the European Union	83
Section 1: Institutional Framework	85
Chapter Four · The EU Court System: Structure, Functions and Procedure	123
Section 1: The European Court of Justice	126
Section 2: The General Court	149
Section 3: The Lisbon Treaty and Specialized Courts	155
Chapter Five · Sources of Law: A New Legal Order	163
Section 1: Written Sources of Law	165
Section 2: Secondary Sources of Law	189
Chapter Six · Fundamental Rights, the ECHR and the EU Charter	205
Section 1: Building Toward the EU Charter of Fundamental Rights	205
Section 2: The Year 2000 Version of the Charter of Fundamental Rights	210

Section 3: The Lisbon Treaty and the Year 2007 Version of the Charter of Fundamental Rights	223
Section 4: Accession to the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR)	233
Chapter Seven · European Union Law and National Legal Orders	239
Section 1: The Nature of EU Law	239
Section 2: Supremacy of EU Law and the Member States	243
Section 3: Reception of EC/EU Law in Some Member States	271
Chapter Eight · Preliminary Reference — Preliminary Ruling	305
Section 1: Some Governing Texts	305
Section 2: The Meaning of TFEU Article 267 (ex-ECT Article 234): Preliminary Ruling	307
Section 3: The Scope of Application of Article 267 (ex-TEC Article 234)	310
Chapter Nine · Judicial Review	361
Section 1: The Action for Annulment or Judicial Review	363
Section 2: Action for Failure to Act: TFEU Article 265 (ex-TEC Article 232); [Recours en Carence]	427
Section 3: The Exception of Illegality: TFEU Article 277 (ex-TEC Article 241, ex EEC 184)	436
Chapter Ten · Actions for Infringement or Actions for Enforcement of the Treaty	447
Section 1: Application of EU Law and Notion of ‘Infringement’	448
Section 2: Parties to the Action for Infringement	452
Section 3: Infringement Procedure	461
Section 4: Defenses or Grounds of Exoneration	465
Section 5: Judgments of the ECJ under TFEU Article 260 (ex-TEC Article 228)	474
Chapter Eleven · Issues of Liability	483
Section 1: Liability of the Member States	483
Section 2: Liability of the European Community/Union	496
Chapter Twelve · External Relations of the Union	511
Section 1: Foreign Policy elements of the Common Foreign and Security Policy	512
Section 2: Lisbon Treaty on EU Competence Concerning the CFSP	519
Section 3: Representation of the Union in External Relations	528
Section 4: Legal Personality of the European Union	533
Section 5: Application of International Law to the Union	536
Section 6: Relations with International Organizations	556
Section 7: European Security and Defense Policy	560
Section 8: Relations between the European Union and the United States	561
Part II A · Economic Law	567
Chapter One · Free Movement of Goods	581

Section 1: The Prohibition between Member States of Customs Duties	582
Section 2: The Prohibition of Quantitative Restrictions and All Measures	
Section 3: State Liability and the Free Movement of Goods: A Restriction? 11	640
Chapter Two · Movement of Persons	653
Section 1: Free Movement of Nationals of Member States or EU Citizens	654
Section 2: Freedom of Movement and Non-EU Citizens	681
Chapter Three · Freedom of Movement of Workers	689
Section 1: The Union “Worker” and His Rights under the Freedom of Movement ³	691
Section 2: The ‘Worker’s Family’	721
Section 3: Derogations, Exceptions under TFEU Article 45-3 and 45-4	725
Chapter Four · Right of Establishment Freedom to Provide and Receive Services	731
Section 1: Establishment and Services in the Internal Market	732
Section 2: Freedoms of Establishment and Services: Scope of Application	734
Section 3: Derogations or Exceptions to the Freedoms of Establishment and Services	763
Chapter Five · Legal Profession and EU Law	783
Section 1: The Legal Profession as a Regulated [Liberal] Profession	784
Section 2: Legal Profession: Issues of the Practice of Law	810
Chapter Six Freedom of Movement of Capital: The European Financial Area	831
Section 1: Free Circulation of Capital	832
Section 2: Coordination of Financial Services	849
Section 3: The New “Organizational Structure”	852
Chapter Seven · Common Commercial Policy (External Trade and Foreign Direct Investment)	863
Section 1: Scope and Function of EU Commercial Relations	865
Section 2: EU Competences in the Trade Field	871
Section 3: The WTO and the European Union	874
Section 4: The Common External Tariff, Law and Policy, TREATY OF LISBON, Title II Free Movement of Goods	882
Section 5: Customs Policy and Administration	891
Section 6: The Common Commercial Policy in the Courts	893
Section 7: Public Health Issues, Enforcement Measures	900
Section 8: Foreign Direct Investment (FDI)	906
Part II B · Competition	923
Section 1: Introduction	925
Section 2: Legal Foundations and Regulatory Scheme of Competition Law	930
Chapter Eight · Article 101 Prevention, Restriction, and Distortion of Competition	935
Section 1: General Prohibition: Conditions	938

Section 2: Nullity [TFEU Article 101 (2)]	986
Chapter Nine · «Article 102 Abuse of a Dominant Position	999
Section 1: Dominant Position	1002
Section 2: Abuses of a Dominant Position	1029
Chapter Ten · Concentration and Merger	1085
Section 1: Merger and Concentration: European Union Perspective	1089
Section 2: Decisions of the Commission	1101
Section 3: Mergers	1122
Chapter Eleven · Enforcement of Competition Law	1143
Section 1: Enforcement of the Competition Law under Articles 101 and 102 TFEU and Council Regulation (EC) No 1/9003	1147
Section 2: Enforcement of the Competition Law: Illustrations	1154
Chapter Twelve · Aid Granted by States	1169
Section 1: State Aid — Concept	1169
Section 2: Compatibility of State Aid	1184
Section 3: State Aid Procedure	1191
Section 4: State Aid and Service of General Economic Interest: Community Framework for State Aid in the Form of Public Service Compensation	1207
Bibliography General Readings	
Index	

Contents

Part I · The Law of the European Union: A New Constitutional Order	1
Chapter One · History: Europe in Search of Its Identity	3
Section 1: The Search for Europe and European Unification	3
From Charlemagne to 1947: The Quest for an Identity	3
Denis Durand de Bousinger, pp. 36–38 in FORUM, Council of Europe (September 1991)	3
The European Idea on Trial between the Wars	4
Carl H. Pegg “European Community,” July–August 1977, No. 202	4
Section 2: Europe “Awakens”: 1947–1958	6
Section 3: Europe “Matures”: 1959–1973	7
Section 4: Europe “Unites”: 1974–1993	8
Section 5: The European Union: 1993–2010	9
Section 6: The EU of Lisbon: 2010–2012	11
Section 7: What Europe?	12
Excerpts from: The Future of Europe, Towards a Two-Speed EU?	12
Jean-Claude Piris, Cambridge University Press, 2012, Introduction p. 1–7	12
Reading Beyond . . . Suggested Readings	13
Chapter Two · The Lisbon Treaty — The TEU — The TFEU: Structure — Constitutional Principles and Powers — Legal Nature	15
Section 1: The European Union: An Overview	16
I: The EU: Its Structure	16
A: The TEU	16
§ 1: The Preamble	16
§ 2: TEU Titles I to VI	17
B: The TFEU	17
§ 1: The Preamble	17
§ 2: Parts	18
II: The EU: Its Objectives	18
III: Principles, Values and Freedoms of the EU10	19
The TEU	19
Questions	20
IV: The Charter	20
A: “Human Dignity” and “Human Rights”	20

Internationale Handelsgesellschaft mbH v. Einfuhr-und Vorratsstelle für Getreide und Futtermittel, Case 11-70, [1970] ECR-1125	21
J. Nold, Kohlen-und Baustoffgroßhandlung v. Commission of the European Communities, Case 4-73, [1974] ECR-491	21
B: “Freedom” and “Freedoms”	22
Dieter Kraus v. Land Baden-Württemberg, Case C-19/92, [1993] ECR I-1663	23
Roland Rutili v. Ministre de l’intérieur, Case 36-75, [1975] ECR-1219	24
Bernard Connolly v. Commission of the European Communities, Case C-274/99 P, [2001] ECR I-1611	24
C: “Equality” “Non-Discrimination”	26
Gabrielle Defrenne v. Société anonyme belge de navigation aérienne Sabena, Case 43-75, [1976] ECR-455	27
Codorniu SA v. Council of the European Union, Case C-309/89, [1994] ECR-1853	28
Hilde Schönheit and Stadt Frankfurt am Main (C-4/02), and between Silvia Becker and Land Hessen (C-5/02)	28
Joined Cases C-4/02 and C-5/02, [2003] ECR-12575	28
D: “Democracy”	29
Commission of the European Communities v. Michael Cwik, Case C-340/00 P, [2001] ECR-10269	29
E: “Rule of Law”	30
Parti écologiste “Les Verts” v. European Parliament, Case 294/83, [1986] ECR-1339	30
Opinion 1/91	31
[1991] ECR I-6079	31
F: “Solidarity”	31
Commission of the European Communities v. French Republic Joined cases 6 and 11-69, [1969] ECR-523	32
Commission of the European Communities v. Italian Republic, Case 39/72, [1973] ECR-101	33
Section 2: Constitutional Principles and Distribution of Powers	33
A: Distribution of Powers: A ‘New’ Constitutional Order	34
Opinion 2/94 Accession to the European Convention for the Protection of Human Rights and Freedoms	36
[1996] ECR I-1759	36
Federal Republic of Germany v. European Parliament and Council of the European Union, Case C-376/98, [2000] ECR I-2247	37
Federal Republic of Germany v. European Parliament and Council of the European Union, Case C-380/03, [2006] ECR I-11573	38
Questions	40
B: The Union’s Actions and Controlling Principles: Subsidiarity, Proportionality, Transparency	41

§ 1: Subsidiarity	41
Community Law and the Principle of Subsidiarity	41
P.J.G. Kapteyn No. 2-1991 <i>Revue des Affaires Européennes</i> 35	41
Communication of the Commission on the Principle of Subsidiarity	42
Bull. EC 10/1992	42
Federal Republic of Germany v. European Parliament and Council of the European Union, Case C-233/94, [1997] ECR I-2405	44
United Kingdom of Great Britain and Northern Ireland v. Council of the European Union, Case C-84/94, [1996] ECR I-5755	45
The Queen and Secretary of State for Health v. British American Tobacco (Investments) Ltd and Imperial Tobacco Ltd, Case C-491/01, [2002] ECR I-11453	45
§ 2: Proportionality	47
TEU Article 5	48
United Kingdom of Great Britain and Northern Ireland v. Council of the European Union, Case C-84/94, [1996] ECR I-5755	49
The Queen v. Ministry of Agriculture, Fisheries and Food, Commissioners of Customs & Excise, ex parte National Farmers' Union and Others, Case C-157/96, [1998] ECR I-221	50
Questions	52
§ 3: Transparency	52
a: Transparency and Democracy	52
Jean Monnet and the "Democratic Deficit" in the European Union	53
Kevin Featherstone ³² <i>Journal of Common Market Studies</i> 149 (1994)	53
Section 3: The EU Jurisdiction/Competence Ratione Loci, Ratione Personae	54
A: Competence Ratione Loci/Soli	54
Imperial Chemical Industries Ltd. v. Commission of the European Communities, Case 48/69, [1972] ECR 61935	54
Europemballage Corporation and Continental Can Company Inc. v. Commission of the European Communities, Case 6/72, [1973] ECR 215	55
United Brands Company and United Brands Continental BV v. Commission of the European Communities: Chiquita Bananas, Case 27/76, [1978] ECR-207	56
B: Competence Ratione Personae: The European Citizen	57
§ 1: Concept of Citizenship: The Treaties	57
§ 2: Some Rights of the European Citizen: The Treaties	58
TFEU Article 20.2	58
TFEU Article 21(1)	59

TFEU Article 22(1)	59
TFEU Article 23	59
TFEU Article 24	59
Carlos Garcia Avello v. État belge, Case C-148/02, [2003] ECR I-11613	59
Rudy Grzelczyk v. Centre public d'aide sociale d'Ottignies-Louvain-la-Neuve, Case C-184/99, [2001] ECR I-6193	61
Secretary of State for the Home Department v. Hacene Akrich, Case C-109/01, [2003] ECR I-9607	63
§ 3: The "Citizenship Directive"	65
Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004	65
OJ L 158/77, 30.4.2004	65
Minister voor Vreemdelingenzaken en Integratie v. R.N.G. Eind, Case C-291/05, [2007] ECR I-10719	65
Jacqueline Förster v. Hoofddirectie van de Informatie Beheer Groep, Case C-158/07, [2008] ECR I-8507	67
Janko Rottmann v. Freistaat Bayern, Case C-135/08, [2010] ECR I-1449	68
Section 4: The TEU & TFEU: A Constitution?	69
Does the European Union Have a Constitution? Does It Need One?	69
Jean-Claude Piris ²⁴ European Law Rev. 557 (1999)	69
NV Algemene Transport-en Expeditie Onderneming van Gend & Loos v. Netherlands Inland Revenue Administration, Case 26/62, [1963] ECR-1	71
Costa v. ENEL Case 6/64, [1964] ECR-585	71
Brunner v. The European Union Treaty, Cases 2 BvR 2134/92 & 2159/92 BUNDESVERFASSUNGSGERICHT (2 Senat)(Federal Constitutional Court, 2nd Chamber) [1994] 1 C.M.L.R. 57	72
Questions	73
The Federalist	74
Alexander Hamilton, James Madison, and John Jay edited by Benjamin F. Wright; Harvard University Press, Cambridge, Mass (1961) Number 39 Madison: Republicanism, Nationalism, Federalism	74
Printz v. United States	74
521 U.S. 898, 117 S.Ct. 2365 (1997)	74
Alden v. Maine	75
527 U.S. 706, 119 S.Ct. 2240 (1999)	75
The Lisbon Treaty: A Constitution under Another Name? The EU a Federation?	76
Federal Constitutional Court of Germany	78

2 BvE 2/08Dr. Gauweiler v. Treaty of Lisbon Judgment of the Second Senate 30 June 2009 50	78
Questions	80
Reading Beyond . . . Suggested Readings	80
Chapter Three · Institutional Framework of the European Union	83
TEU Article 13	83
Questions	85
Section 1: Institutional Framework	85
A: The European Council	85
B: The European Parliament	86
1: Composition and Powers	86
2: The 2009 Elections	86
3: Status of a Member of the European Parliament (MEP); Parliamentary Ethics	87
Wybot v. Faure, Case 149/85, [1986] ECR 2391	87
4: Relations between the European Parliament and National Parliaments	89
In The Name of the People	89
German Federal Constitutional Court 30 June 2009 Dr. G., applicant, vs. German Bundestag, respondents	89
5: Structure and Administration of the EP	93
6: Powers of the European Parliament	95
a: Role and Powers	
b: Ombudsman	96
c: The European Parliament as Plaintiff against Other Institutions	97
d: The European Parliament and the Council	97
TFEU Article 314 (in part)	98
7: Legislative, Budgetary and Other Procedures	98
Questions	101
C: The Council of the European Union [Council of Ministers of the European Union] and COREPER	102
1: The Council of the European Union	102
a: Organization and Functions	
Questions	106
D: The Commission	106
1: Structure and Operation of the Commission	107
a: Structure	
TEU Article 17	107
b: Personnel	
TEU Article 17	108
TEU Article 17	108
TEU Article 245	109
TEU Article 247	109
c: Operation of the Commission	
d: The Commission: Internal Decision Making	
Questions	117

E: The Union's Advisory Bodies: The Committees	117
TFEU Article 300	117
Questions	119
F: Other Institutions: The ECB and the Court of Auditors	119
1: The European Central Bank	119
2: The Court of Auditors	119
G: Organs, Bodies, Agencies . . .	120
Reading Beyond . . . Suggested Readings	120
Chapter Four · The EU Court System: Structure, Functions and Procedure	123
The Role of the European Court of Justice	123
Andreas Donner, Member of the Court of Justice of the European Communities in Law and the European Community, EC Information Service (1966)	123
Introducing a European Legal Order	124
Gordon Slynn, pp. 6–9 in The Hamlyn Lectures, Forty-third Series Stevens & Sons, Ltd. (1991)	124
TEU Article 19	125
Section 1: The European Court of Justice	126
A: Composition	126
1: Judges and Advocates-General: Selection, Appointment	126
TEU Article 19(2)	126
The Court of Justice of the European Communities	127
Periodical — May, 1986 European Documentation	127
The Advocate General in the Court of Justice of the European Communities	127
A. A. Dashwood 2 Legal Studies 202 (1982)	127
EMESA Sugar (Free Zone) NV v. Aruba, Case C-17/98, [2000] ECR I-665	129
Opinion of Advocate General Bot	130
Delivered on 17 December 2009 in	130
The Sporting Exchange Ltd, Trading as Betfair v. Minister van Justitie, Case C-203/08, [2010], ECR I-4695	130
Ladbrokes Betting & Gaming Ltd, Ladbrokes International Ltd v. Stichting de Nationale Sporttotalisator, Case C-258/08, [2010], ECR I-4757	130
2: Judges and Advocates-General: Legal Status	133
Protocol (No. 3)	134
Questions	134
B: Structure of the ECJ	135
1: Composition of the ECJ	135
TFEU Article 253 (in part)	136
2: President of the ECJ and First Advocate General	136
3: Chambers	136
4: Sessions and Registrar	137
5: Languages	137
a: The Problems	137
b: The Language of the Case	138

c: The Working Language	139
The Court of Justice of the European Communities	139
Carl Otto Lenz ¹⁴ <i>European Law Rev.</i> 126 (1989)	139
Questions	140
C: The ECJ: Its Major Roles	141
1: The ECJ and Judicial Control	141
Judicial Control by the ECJ	141
Maurice Lagrange, in <i>Law and the European Community</i> European Community Information Service (1966)	141
2: Tasks and Responsibilities of the ECJ	143
The Court of Justice of the European Communities	143
Office for Official Publications of the European Communities (1975)	143
3: The Lisbon Treaty and Jurisdiction of the ECJ	144
a: Traditional Jurisdiction of the ECJ	
D: Rules of Procedure: A Survey	147
b: New Jurisdiction of the ECJ under the Lisbon Treaty	
E: Statistics: Annual Report 2010	149
Section 2: The General Court	149
A: From the Court of First Instance to the General Court	149
Article 168a	149
The Essential Minimum: The Establishment of the Court of First Instance	150
Tom Kennedy ¹⁴ <i>European Law Rev.</i> 7 (1989)	150
B: Composition and Organization of the General Court	150
TEU Article 19	150
Statute of the Court of Justice of the European Union	150
C: Procedure before the General Court	152
D: Jurisdiction of the General Court	153
Statute of the Court of Justice of the European Union	154
E: Statistics	155
Questions	155
Section 3: The Lisbon Treaty and Specialized Courts	155
A: The European Union Civil Service Tribunal	156
Curia — Annual Report 2010	157
A — Proceedings of the Civil Service Tribunal in 2010 By Mr. Paul Mahoney, President of the Civil Service Tribunal	157
B: A “Community Patent Court”?	157
1: Proposal for a Council Decision Establishing the Community Patent Court and Concerning Appeals before the Court of First Instance	157
2: Draft Agreement on the European and Community Patents Court and Draft Statute; Council of the European Union, 7928/09, 23 March 2009 [. . .]	158
3: Opinion 1/09 of the Court (Full Court)	158
Reading Beyond . . . Suggested Readings	160
 Chapter Five · Sources of Law: A New Legal Order	 163

Van Gend en Loos v. Nederlandse administratie der belastingen, Case 26/62, [1963] ECR 1	163
Costa v. ENEL, Case 6/64, [1964] ECR 585	164
Questions	164
Section 1: Written Sources of Law	165
§ 1: Conventional Written Sources of Law	165
a: The Treaties: From the Treaty of Paris to the Lisbon Treaty	165
b: International Treaties/Conventions	165
Racke GmbH & Co. v Hauptzollamt Mainz, Case C-162/96 [1998] ECR I-3655	165
Yassin Abdullah Kadi v. Al Barakaat International Foundation	166
Joined cases C-402/05 P and C-415/05 P [2008] ECR I-6351	166
§ 2: Nominate Legal Acts: TFEU Articles 288–292	168
Article 288	168
a: Regulation	169
Confédération nationale des producteurs de fruits et légumes and Others and Fédération nationale des producteurs de raisins de table v. Council of the European Economic Community, Case 16 and 17/62, [1962] ECR 471	169
Commission of the European Communities v. Italian Republic, Case 39-72, [1973] ECR 777	171
Gottfried Henrich, Case C-345/06, [2009] ECR I-1659	172
Questions	173
b: Directive	173
TFEU Article 288(3)	173
M. H. Marshall v. Southampton and South-West Hampshire Area Health Authority (Teaching), Case 152/84, [1986] ECR 723	174
Bernhard Pfeiffer v. Deutsches Rotes Kreuz, Kreisverband Waldshut eV, Case C-397/01, [2004] ECR I-8835	176
Marleasing SA v. La Comercial Internacional de Alimentacion SA, Case C-106/89, [1990] ECR I-4135	177
El Corte Inglés SA v. Cristina Blázquez Rivero, Case C-192/94, [1996] ECR I-1281	178
Werner Mangold v. Rüdiger Helm, Case C-144/04, [2005] ECR I-9981	179
Seda Kücüydevecu v. Swedex GmbH & Co. KG., Case C-555/07, [2010] ECR I-365	181
Questions	183
c: Decision	183
Franz Grad v. Finanzamt Traunstein, Case 9/70, [1970] ECR 825	183
Commission of the European Communities v. Hellenic Republic, Case 226/87, [1988] ECR 3611	184

d: Control by the Court of the Legal Nature of the Selected Juridical Act or Measure	185
Questions	185
e: Statement of Reasons: TFEU Article 296 (ex-Article 253 TEC)	185
TFEU Article 296	185
Opinion 2/00 of the Court	186
6 December 2001 [2001] ECR I-9713	186
SA Roquette Frères v. Council of the European Communities, Case 138/79, [1980] ECR 3333	187
Organisation des Modjahedines du peuple d'Iran v. Council of the European Union	187
T-228/02, [2006] ECR II-4665	187
Questions	188
Section 2: Secondary Sources of Law	189
The Community Legal Order	189
Jean-Victor Louis, p. 110 in <i>European Perspectives</i> , 3rd edition (1995) Office for Official Publications of the European Communities	189
Salvatore Grimaldi v. Fonds des maladies professionnelles, Case C-322/88, [1989] ECR 4407	189
§ 1: Innominate Acts; Acts "Sui Generis"	189
The Community Legal Order	189
Jean-Victor Louis, pp. 111 in <i>European Perspectives</i> , 3rd edition (1995) Of- fice for Official Publications of the European Communities	189
Parti écologiste "Les Verts" v. European Parliament, Case 294/83, [1986] ECR 1339	190
Questions	191
§ 2: Persuasive Sources of Law	192
a: Judgments of the European Court of Justice: Stare Decisis, Precedent? Jurisprudence Constante?	192
The Authority of Judgments of the European Court of Justice: Binding Force and Legal Effects	193
A. G. Toth 4 Yearbook of European Law 1 (1984) 8	193
Da Costa en Schaake N.V. v. Nederlandse Belastingadministratie, Cases 28, 29 and 30/62, [1963] ECR 31	195
Smanor SA and Others v. Commission, Case C-317/97 P, [1998] ECR I-4269	197
Questions	197
b: General Principles of Law and Fundamental Rights	197
J. Nold, Kohlen-und Baustoffgroßhandlung v. Commission of the European Communities, Case 4/73, [1974] ECR 491	199
SA Roquette Frères v. and Directeur général de la concurrence, de la consommation et de la répression des fraudes v. Commission of the European Communities, Case C-94/00, [2002] ECR I-9011	199

Omar Mohammed Othman v. Council of the European Union and Commission of the European Communities, Case T-318/01, [2009] ECR II-1627	200
Seda Küçükdeveci v. Swedex GmbH & Co. KG, Case C-555/07, [2010] ECR I-365	201
Questions	201
Reading Beyond . . . Suggested Readings	202
Chapter Six · Fundamental Rights, the ECHR and the EU Charter	205
Section 1: Building Toward the EU Charter of Fundamental Rights	205
Nicolas Bamforth, European Union Law, the European Convention, and Human Rights	205
58 Virginia Lawyer 38 (2010)	205
European Convention for the Protection of Human Rights and Fundamental Freedoms	209
http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/europeanconventionforthe-protectionofhumanrightsandfundamentalfreedoms.htm	
March 12, 2007	209
Section 2: The Year 2000 Version of the Charter of Fundamental Rights	210
European Commission, Respecting Fundamental Rights while Ensuring Security and Justice in the European Union, July 2007	210
http://ec.europa.eu/justice_home/fsj/rights/fsj_rights_intro_en.htm	210
The European Union Agency for Fundamental Rights (FRA)	211
http://fra.europa.eu/fraWebsite/attachments/factsheet_en.pdf	211
Notes and Questions	212
“Leased Aircraft” Bosphorus Hava Yollari Turizm ve Ticaret AS v. Minister for Transport, Energy and Communications and Others, Case C-84/95, [1996] ECR I-03953	213
“Family Life” European Parliament v. Council of the European Union, Case C-540/03, [2006] ECR I-05769	214
(Frozen Financial Assets) Yassin Abdullah Kadi et al. v. Council of the European Union and the Commission of the European Communities	216
Joined Cases C-402/05 P and C-415/05 P, [2008] ECR I-6351	216
Notes	221
U.N. Measure Offers Recourse to Blacklisted	222
The New York Times, Neil Macfarquhar, December 18, 2009	222
Note	222
Section 3: The Lisbon Treaty and the Year 2007 Version of the Charter of Fundamental Rights	223
Charter of Fundamental Rights: The Presidents of the Commission, European Parliament and Council Sign and Solemnly Proclaim the Charter in Strasbourg	223

European Union, Press Release, IP/07/1916, Brussels, 12 December 2007	223
EU Charter of Fundamental Rights — Proclamation at Parliament in Strasbourg	224
http://www.europarl.europa.eu/sides/getDoc.do?type=IM- PRESS&reference=20071127BKG13869&language=EN , 12 December 2007	224
Note	226
Lisbon Treaty on European Union [TEU]	226
Note	227
(Unisex in Insurance Premiums and Benefits) Association Belge des Consommateurs Test-Achats v. Conseil des ministres, (Case C-236/09, Grand Chamber, 1 March 2011)	228
Notes and Questions	231
Jean-Claude Piris, <i>The Treaty of Lisbon</i> 151, Cambridge (2010)	231
The substantive content of the Charter of Fundamental Rights	231
John J. Barceló III, <i>ECJ Review of Member State Measures for Compliance with Fundamental Rights</i>	232
Union des Droits, <i>Union des Droits: Mélanges en L'Honneur de Philippe Manin</i> , Cornell Legal Studies Research Paper No.10-001, (June 29, 2009) available at http://ssrn.com/ab- stract=1543222	232
Section 4: Accession to the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR)	233
Protocol (No 8) Relating to Article 6(2) of the Treaty on European Union on the Accession of the Union to the European Convention on the Protection of Human Rights and Fundamental Freedoms	233
OJEU, C 83/273, 3 March 2010	233
Note	233
European Court of Human Rights — The Court Press Conference January 27, 2011	234
http://www.echr.coe.int/ECHR/EN/Header/The+Court/The +President/Press+conferences/	234
Wolfgang Weiß, <i>Human Rights in the EU: Rethinking the Role of the European Convention on Human Rights after Lisbon</i>	235
7 Eu Const 64 (2011)	235
Notes and Questions	235
Reading Beyond . . . Additional Readings	237
Chapter Seven · European Union Law and National Legal Orders	239
Section 1: The Nature of EU Law	239
Van Gend en Loos v. Nederlandse administratie der belastingen, Case 26/62, [1963] ECR 1	241
Costa v. E.N.E.L., Case 6/64, [1964] ECR 585	241
Questions	242

Section 2: Supremacy of EU Law and the Member States	243
A: The Principles of Direct Applicability and Direct Effect	243
1: A Distinction: Direct Applicability	243
Direct Applicability and Direct Effect: Two Distinct and Different Concepts in Community Law	243
J.A. Winter ⁹ <i>Common Market Law Rev.</i> 425 (1972)	243
Costa v. E.N.E.L., Case 6/64, [1964] 585	245
Questions	246
2: Direct Effect	246
a: Direct Effect and the EC/EU Treaties	246
The Doctrine of “Direct Effect”: An Infant Disease of Community Law	246
Pierre Pescatore, Judge at the European Court ⁸ <i>European Law Rev.</i> 155 (1983)	246
Van Gend en Loos v. Nederlandse administratie der belastingen, Case 26/62 [1963] ECR 1	247
Van Duyn v. Home Office, Case 41/74, [1974] ECR 1337	247
Questions	248
b: Direct Effect and Unilateral EU Acts or Measures	
The Doctrine of Direct Effect: An Infant Disease of Community Law	249
Pierre Pescatore, Judge at the European Court ⁸ <i>European Law Rev.</i> 155 (1983)	249
Franz Grad v. Finanzamt Traunstein, Case 9/70, [1970] ECR 825	249
Questions	251
Van Duyn v. Home Office, Case 41/74, [1974] ECR 1337	251
Ursula Becker v. Finanzamt Münster-Innenstadt, Case 8/81, [1982] ECR 53	252
Sabine von Colson and Elisabeth Kaman v. Land Nordrhein-Westfalen, Case 14/83, [1984] ECR 1891	253
Paola Faccini Dori v. Recreb Srl, Case C-91/92, [1994] ECR I-3325	255
Pfeiffer and Others v. Deutsches Rotes Kreuz, Kreisverband Waldshut eV	258
Joined Cases C-397/01 to C-403/01, [2004] ECR I-8835	258
Flughafen Köln/Bonn GmbH v. Hauptzollamt Köln, Case C-226/07, [2008] ECR I-5999	259
Questions	261
B: Primacy or Supremacy of EC/EU Law and National Legal Orders	262
The Law of Integration	263
Pierre Pescatore/Sijthoff Publishers, Leiden/The Graduate Institute of International Studies, Geneva (1974)	263
1: Principle: Primacy of EC Law over National Substantive Law: Foundations of the Principle	264

Costa v. Ente Nazionale per l'Energia Elettrica (ENEL), Case 6/64, [1964] ECR 585	264
Internationale Handelsgesellschaft MBH v. Einfuhr-und Vorratsstelle für Getreide und Futtermittel, Case 11/70, [1970] ECR 1125	265
Amministrazione delle Finanze dello Stato v. Simmenthal S.p.A., Case 106/77, [1978] ECR 629	266
Krzysztof Filipiak v. Dyrektor Izby Skarbowej w Poznaniu, Case C-314/08, [2009] ECR I-11049	267
Winner Wetten GmbH v. Bürgermeisterin der Stadt Bergheim, Case C409/06, [2010] ECR I-8015	268
2: Primacy of EC/EU Law over National Rules of Procedure Rewe-Zentralfinanz and Rewe-Zentral AG v. Landwirtschaftskammer für das Saarland, Case 33/76, [1976] ECR 1989	269
Jeroen van Schijndel and Johannes Nicolaas Cornelis van Veen v. Stichting Pensioenfonds voor Fysiotherapeuten	269
Joined Cases C-430/93 and C-431/93, [1995] ECR I-4705	269
Unibet (London) Ltd., Unibet (International) Ltd. v. Justitiekanslern, Case C-432/05, [2007] ECR I-2271	270
Section 3: Reception of EC/EU Law in Some Member States	271
A: Reception of EU/EC Law in France	274
1: Articles of the French Constitution	274
2: The French Courts' Approach	275
a: The Cour de Cassation	
Administration des Douanes v. Société Cafés Jacques Vabre & J. Weigel et Compagnie S.à.r.l.	275
Cour de Cassation (Ch Mixte), 24 May 1975[1975] 2 C.M.L.R. 336	275
b: The Conseil d'État	
Raoul Georges Nicolo and Another	276
Conseil d'État, 20 October 1989[1990] 1 C.M.L.R. 173	276
c: The Conseil Constitutionnel; Constitutional Council	277
B: Reception of EU/EC Law in the United Kingdom	278
European Communities Act 1972	278
European Communities (Amendment) Act 1993	279
McCarthy's Ltd. v. Smith	280
Court of Appeal, May 22–25, July 19, 1979[1979] I.C.R. 785	280
Factortame Ltd and Others v. Secretary of State for Transport	282
House of Lords, April 17–27, May 18, 1989[1989] 2 All E.R. 692	282
Factortame Ltd and Others v. Secretary of State for Transport (No 2), House of Lords, April, July and October 1990[1991] 1 All E.R. 70	282
C: Reception of EU/EC Law in Ireland	283
D: Reception of EU/EC in Germany	284
Basic Law of the Federal Republic of Germany	284

Promulgated on 23 May 1949; Revised and updated (for purposes of the TEU): January 1994 Article 23 (European Union)	284
Brunner v. The European Union Treaty, (Cases 2 BvR 2134/92 & 2159/92), German Federal Constitutional Court, 12 Oct. 1993[1994] 1 C.M.L.R. 57	286
2 be 2/08 Gauweiler v. Treaty of Lisbon	288
Judgment of the Second Senate 1330 June 2009	288
E: Reception of Community Union Law in Italy, Denmark	292
1: Italy	292
S.p.a. Granital v. Amministrazione delle Finanze dello Stato Constitutional Court (Italy), Decision No. 170 of 8 June 1984	292
Note by Giorgio Gaja 21 Common Market Law Rev. 756 (1984)	292
2: Denmark	294
Decision Concerning the Maastricht Treaty, Case No. 1361/1997 1998 Ugeskrift for Retsvaesen, H 800 Supreme Court of Denmark April 6, 1998 http://www.um.dk/udenrigspolitik/europa/domeng (Unofficial translation) Date visited: 15 November 1999	294
3: Belgium	295
The Application of Community Law in Belgium	296
Koen Lenaerts 23 Common Market Law Rev. 253 (1986)	296
4: Czech Republic	296
Constitutional Court Framework Decision on the European Arrest Warrant 17	296
P. 1 ÚS 66/04, Decision of 3 May 2006	296
Treaty of Lisbon	297
P. 1 ÚS 19/08, Decision of 26 November 2003	297
5: Poland	300
Decision of the Polish Constitutional Court P 1/05	300
Decision of 27 April 2005, published 4 May 2005	300
6: a: Estonia — b: Hungary	302
Questions	302
Reading Beyond . . . Suggested Readings	302
Chapter Eight · Preliminary Reference — Preliminary Ruling	305
Section 1: Some Governing Texts	305
Article 267 of the TFEU (ex-ETC Article 234) (and former EEC Article 177)	305
Protocol (No. 3)	306
On the Statute of the Court of Justice Of the European Union	306
Section 2: The Meaning of TFEU Article 267 (ex-ECT Article 234): Preliminary Ruling	307
Skatteverket v. Gourmet Classic Ltd., Case C-458/06, [2008] ECR I-4207	309
Section 3: The Scope of Application of Article 267 (ex-TEC Article 234)	310
A: Preliminary Rulings and Legal Norms	311
B: Courts, Tribunals of Member States and Preliminary References	311

Broekmeulen v. Huisarts Registratie Commissie, Case 246/80, [1981] ECR 2311	312
Nordsee Deutsche Hochseefischerei GmbH v. Reederei Mond Hochseefischerei Nordstern AG & Co. KG, Case 102/81, [1982] ECR 1095	312
Wilson v. Ordre des avocats du barreau de Luxembourg, Case C-506/04, [2006] ECR I-8613	313
Cartesio Oktató és Szolgáltató bt, Case C-210/06, [2008] ECR I-9641	314
Questions	316
C: Nature of National Proceedings and Preliminary Reference	317
Pasquale Foglia v. Mariella Novello, Case 104/79, [1980] ECR 745	317
Pasquale Foglia v. Mariella Novello Case 244/80, [1981] ECR 3045,	318
Weinand Meilicke v. ADV/ORG A AG, Case C-83/91, [1992] ECR I-4871	319
Peterbroeck, Van Campenhout & Cie SCS v. Belgian State, Case C-312/93, [1995] ECR 4599	320
Cartesio Oktató és Szolgáltató bt, Case C-210/06, [2008] ECR I-9641	321
Questions	323
D: Interpretation of Acts and Validity of Acts	323
1: Interpretation	324
Ignacio Pedro Santesteban Goicoechea, Case C-296/08 PPU, [2008] ECR I-6307	325
2: Validity	330
Foto-Frost v. Hauptzollamt Lübeck-Ost, Case 314/85, [1987] ECR 4199	330
Zuckerfabrik Süderdithmarschen AG v. Hauptzollamt Itzehoe and Zuckerfabrik Soest GmgH v. Hauptzollamt Paderborn	332
Joined Cases C-143/88 and C-92/89, [1991] ECR I-415	332
Questions	333
E: Option or Obligation to Refer and Exceptions	333
1: Option or Obligation to Refer?	333
Rheinmühlen-Düsseldorf v. Einfuhr-und Vorraststelle für Getreide und Futtermittel, Case 166/73, [1974] ECR 33	334
Aziz Melki, Sélim Abdeli	335
Joined Cases, C-188/10 and C-189/10, [2010] ECR I-5667	335
Questions	341
2: Exception(s) to the Obligation to Refer?	342
S.A. Krüger v. Directie van de rechtspersoonlijkheid bezittende Dienst Wegverkeer, Case C-253/01, [2004] ECR I-1191	343
S.r.l. CILFIT and Lanificio di Gavardo SpA v. Ministry of Health, Case 283/81, [1982] ECR 3415	343
Questions	345

F: TFEU Article 267 and Preliminary Ruling Procedure	346
G: Effects of Preliminary Rulings	346
1 & 2: Authority of a Preliminary Ruling on the Referring National Court and Other National Courts	346
Opinion of Mr. Advocate-General M. Lagrange	347
Delivered on 13 March 1963	347
Opinion of Mr. Advocate General Warner	348
Delivered on 20 September 1977 <i>Manzoni v F.N.R.O.M.</i> , Case 112/76, [1977] ECR 1647	348
<i>Wünsche Handelsgesellschaft GmbH & Co. v. Federal Republic of Germany</i> , Case 69/85, [1986] ECR 947	350
<i>Willy Kempter KG v. Hauptzollamt Hamburg-Jonas</i> , Case C-2/06, [2008] ECR I-411	350
3: Temporal Effects of Preliminary Rulings	352
<i>Gabrielle Defrenne v. Société Anonyme Belge de Navigation Aérienne Sabena</i>	352
a: Temporal Effects of Preliminary Rulings in Matters of Interpretation, Case 43/75, [1976] ECR 455	352
<i>Société Bautiaa v. Directeur des Services Fiscaux des Landes and Société Française Maritime SA v. Directeur des Services Fiscaux du Finistère</i>	353
Joined Cases C-197/94 and C-252/94, [1996] ECR I-505	353
<i>Kühne & Heitz NV</i> , Case C-453/00, [2004] I-837	353
Opinion of Advocate General Bot In <i>Willy Kempter KG v. Hauptzollamt Hamburg-Jonas</i>	354
Delivered on 24 April 2007 Case C-2/06, [2008] ECR I-411	354
b: Temporal Effects of Preliminary Rulings on Validity of Acts or Measures of Community Institutions	356
<i>Firma C. Schwarze v. Einfuhr-und Vorrastelle für Getreide und Futtermittel</i>	356
Case 16/65, [1965] ECR 877, <i>Roquette Frères SA v. Hauptzollamt Geldern</i> , Case C-228/92, [1994] ECR I-1445	357
Questions	358
Reading Beyond . . . Additional Readings	359
Chapter Nine · Judicial Review	361
Action for Annulment, Action for Failure to Act and Exception of Illegality	361
Section 1: The Action for Annulment or Judicial Review	363
TFEU Article 263 (ex-TEC Article 230)	363
TFEU Article 264 (ex-TEC Article 231)	363
A: Acts Which Can Be Challenged	365
<i>Commission of the European Communities v. Council of the European Communities</i> , Case 22/70, [1971] ECR 263	365

Sogelma v. European Agency for Reconstruction (EAR), Case T-411/06, [2008] ECR II-2271	366
Société Anonyme à Participation Ouvrière Compagnie Nationale Air France v. Commission of the European Communities, Case T-3/93, [1994] ECR II-121	368
Questions	369
1: Preparatory Measures	370
International Business Machines Corporation v. Commission of the European Communities, Case 60/81, [1981] ECR 2639	370
2: Acts of the EU and Foreign Sources of Law; Acts of the Council or Acts of Governments	371
European Parliament v. Council of the European Communities and Commission of the European Communities	371
Joined Cases C-181/91 and C-248/91, [1993] ECR I-3685	371
Yassin Abdullah Kadi v. Council of the European Union, Cases 402/05 P and 425/05 P, [2008] ECR I-6351	371
3: Measures Taken by the Parliament	373
Parti écologiste “Les Verts” v. European Parliament, Case 294/83, [1986] ECR 1339	373
Front National v. European Parliament, Case C-486/01 P, [2004] ECR I-6289	376
4: “Unusual” Form of a Measure: Can It Still Be a Legal Measure?	377
B: Parties to the Action	377
1: Privileged and Institutional Parties	377
a: A Privileged Party: A Member State	378
Government of the Italian Republic v. Council of the European Communities, Case 166/78, [1979] ECR 2575	378
European Parliament v. Council of the European Communities (Comitology), Case 302/87, [1988] ECR 5615	378
b: A Non-Privileged Institutional Party: The European Parliament	378
European Parliament v. Council of the European Union and European Parliament v. Commission of the European Communities	380
Joined Cases C-317/04 and C-318/04, [2006] ECR I-4721	380
Questions	383
c: A Somewhat Privileged Party	383
Landtag Schleswig-Holstein v. Commission of the European Communities, Case T-236/06, [2008] ECR II-461	383
2: Natural or Legal Persons	384
a: Action against an Act of Direct and Individual Concern	386
Plaumann & Co. v. Commission of the European Economic Community, Case 25/62, [1963] ECR 95	386

Stichting Greenpeace Council (Greenpeace International) and Others v. Commission of the European Communities, Case T-585/93, [1995] ECR II-2205	387
Osman Ocalan (on behalf of the Kurdistan Workers' Party PKK), Serif Vanly (on behalf of the Kurdistan National Congress, KNK) v. Council of the European Union, Case C-229/05 P, [2007] ECR I-439	388
b: Action against a Directive	392
Asociación Española de Empresas de la Carne (Asocarne) v. Council of the European Union, Case T-99/94, [1994] ECR II-871	392
Asociación Española de Empresas de la Carne (Asocarne) v. Council of the European Union, Case C-10/95 P, [1995] ECR I-4149	395
Eurotunnel SA and Others v. SeaFrance, formerly Société Nouvelle d'Armement Transmanche SA (SNAT), Case C-408/95, [1997] ECR I-6315,	396
c: Action against a Regulation: Direct and Individual Concern	397
Confédération Nationale des Producteurs de Fruits et Légumes v. Council of the European Economic Community	397
Joined Cases 16 and 17/62, [1962] ECR 471	397
Unión de Pequeños Agricultores v. Council of the European Union and Commission of the European Communities, Case C-50/00 P, [2002] ECR I-6677	397
Commission of the European Communities v. Jégo-Quééré & Cie SA, Case C-263/02 P, [2004] ECR I-3425	401
Codorniu SA v. Council of the European Union, Case C-309/89, [1994] ECR I-1853	402
Questions	404
C: Grounds for Annulment	404
1: Lack of Competence	405
French Republic v. Commission of the European Communities, Case C-327/91, [1994] ECR I-3641	405
Republic of Estonia, Republic of Lithuania, Slovak Republic v. Commission of the European Communities and United Kingdom of Great Britain and Northern Ireland, Case T-263/07, [2009] ECR II-3463	406
2: Infringement of an Essential Procedural Requirement	409
Imperial Chemical Industries plc v. Commission of the European Communities, Case T-36/91, [1995] ECR II-1847	409
3: Infringement of the Treaties or of Any Rule of Law Relating to Their Application	411
John Carvel and Guardian Newspapers Ltd v. Council of the European Union, Case T-194/94, [1995] ECR II-2765	411

Yassin A. Kadi v. Council of the European Union, Kingdom of Spain, French Republic, Cases C-402/05 P and C-415/05 P, [2008] ECR I-6351	414
4: Misuse of Powers	415
United Kingdom of Great Britain and Northern Ireland v. Council of the European Union, Case C-84/94, [1996] ECR I-5755	416
Kingdom of Spain v. Council of the European Union, Case 310/04, [2006] ECR I-7285	418
Questions	419
D: Effects of the Judgment of Annulment or Voidness: TFEU	
Articles 264 and 266	419
TFEU Article 264	419
TFEU Article 266	420
European Parliament v. Council of the European Communities, Case C-295/90, [1992] ECR I-4193	420
Council of the European Union v. European Parliament, Case C-41/95, [1996] ECR I-4411	422
Yassin Abdullah Kadi v. Council of the European Union, Cases C-402/05 P and C-415/05 P, [2008] ECR I-6351	423
Commission of the European Communities v. AssiDomän Kraft Products and Others, Case C-310/97 P, [1999] ECR I-5363	424
Questions	426
Section 2: Action for Failure to Act: TFEU Article 265 (ex-TEC Article 232); [Recours en Carence]	427
Article 265 (ex-Article 232 TEC)	427
A: Parties to the Action and Failures to Act	428
European Parliament v. Council of the European Communities, Case 13/83, [1985] ECR 1513	428
Star Fruit Company SA v. Commission of the European Communities, Case 247/87, [1989] ECR 291	430
Gertevision Telecinco SA v. Commission of the European Communities, Case T-95/96, [1998] ECR II-3407	431
Questions	433
B: Procedure	433
Empresa Nacional de Urânio S.A. v. Commission of the European Communities, Case C-107/91, [1993] ECR I-599	434
C: Judgment of the Court: ECT Article 266 (ex-Article 233) Article 266 (ex-Article 233 TEC)	434
Asteris AE and Others and Hellenic Republic v. Commission of the European Communities	435
Joined Cases 97/86, 193/86, 99/86 and 215/86, [1988] ECR 2181	435
Karl Könecke Fleischwarenfabrik GmbH & Co. KG v. Commission of the European Communities, Case 76/79, [1980] ECR 665	436

Section 3: The Exception of Illegality: TFEU Article 277 (ex-TEC Article 241, ex EEC 184)	436
Article 277 (ex-Article 241 TEC)	436
Milchwerke Heinz Wöhrmann & Sohn KG and Alfons Lütticke GmbH v. Commission of the European Community	437
Joined Cases 31 and 33/62, [1962] ECR 744	437
A: The Beneficiaries of the Exception of Illegality	439
Kingdom of Spain v. Commission of the European Communities, Case C-135/93, [1995] ECR I-1651	439
J.T. Martinez, Charles de Gaulle [and Others] v. European Parliament	441
Joined Cases T-222/99, T-327/99 and T-329/99, [2001] ECR II-2823	441
B: What “Act of General Application” Can Be Challenged by Way of the Exception of Illegality?	442
Simmenthal S.p.A. v. Commission of the European Communities, Case 92/78, [1979] ECR 777	442
Questions	445
Reading Beyond . . . Suggested Readings	445
Chapter Ten · Actions for Infringement or Actions for Enforcement of the Treaty	447
Section 1: Application of EU Law and Notion of ‘Infringement’	448
Opinion of Mr. Advocate-General Lagrange [1960]	448
Opinion of Mr. Advocate-General Gand [1970]	448
The ECJ [1972]	449
The ECJ [1995]	449
Report from the Commission 28th Annual Report on the Monitoring the Application of EU Law (2010)	450
Brussels, 29.9.2011, COM (2011) 588 Final	450
Questions	451
Section 2: Parties to the Action for Infringement	452
A: The Commission as Applicant	452
Alfons Lütticke GmbH and Others v. Commission of the European Economic Community, Case 48/65, [1966] ECR 19	452
Star Fruit Company SA v. Commission of the European Communities, Case 247/87, [1989] ECR 291	452
Commission of the European Communities v. Kingdom of Spain, Case C-227/01, [2004] ECR I-8253	453
B: A Member State as Applicant: TFEU Article 259 (ex-TEC Article 227)	454
TFEU Article 259	454
Commission of the European Communities, United Kingdom of Great Britain and Northern Ireland v. Ireland, Case C-459/03 [2006] ECR I-4635	454

Kingdom of Spain v. United Kingdom of Great Britain and Northern Ireland, Case C-145/04 [2006] ECR I-7917	455
Questions	457
C: Defendant in the Action	457
1. Whatever the Organ, Agency. . . .	457
2: All Authorities of Member States Including . . . the Courts	458
Commission of the European Communities v. Italian Republic, Case C-129/00, [2003] ECR I-4637	458
3: Subdivisions of the State, Authorities. . . .	460
Commission of the European Communities v. Federal Republic of Germany, Case C-383/00, [2002] ECR I-4219	461
Questions	461
Section 3: Infringement Procedure	461
A: The Administrative Phase or Pre-Litigation Stage	461
Report from the Commission 26th Annual Report on Monitoring the Application of Community Law (2008)	461
COM (2009) 675 final	461
Report from the Commission 27th Annual Report on Monitoring the Application of EU Law (2009)	462
COM (2010) 538 final	462
Commission of the European Communities v. Federal Republic of Germany, Case C-317/92, [1994] ECR I-2039	463
Commission of the European Communities v. Hellenic Republic, Case C-489/06, [2009] ECR I-1797	463
Questions	464
B: The Judicial Phase	464
Commission of the European Economic Community v. Government of the Italian Republic, Case 7/61, [1961] ECR 317	464
Commission of the European Communities v. Federal Republic of Germany	465
Joined Cases C-20/01 and C-28/01, [2003], ECR I-3609	465
Section 4: Defenses or Grounds of Exoneration	465
A: Force Majeure	466
Commission of the European Communities v. Italian Republic, Case 101/84, [1985] ECR 2629	466
Commission of the European Communities v. Hellenic Republic, Case 70/86, [1987] ECR 3545	467
B: Reciprocity; Tu Quoque	467
Commission of the European Economic Community v. Grand Duchy of Luxembourg and Kingdom of Belgium	467
Joined Cases 90 and 91/63, [1964] ECR 625	467
Commission of the European Communities v. French Republic (Mutton and Lamb), Case 232/78, [1979] ECR 2729	468
C: Internal National Practices, Circumstances, Difficulties . . .	469

Commission of the European Communities v. Federal Republic of Germany, Case C-217/88, [1990] ECR I-2879	469
Commission of the European Communities v. Federal Republic of Germany	470
Joined cases C-20/01 and C-28/01, [2003] ECR I-3609	470
European Commission v. French Republic (Supported by: Kingdom of Spain, Republic of Finland, United Kingdom of Great Britain and Northern Ireland), Case C-512/08, [2010] ECR I-8833	470
D: Subsequent Compliance by the Member State: Moot Issue?	472
Commission of the European Communities v. Kingdom of the Netherlands, Case C-144/99, [2001] ECR I-3541	472
Commission of the European Communities v. Hellenic Republic, Case C-123/94, [1995] ECR I-1457	472
E: Plea of “Illegality” of the EC Measure; Plea of “Inadmissibility” of the Commission’s Action	473
Commission of the European Communities v. Kingdom of the Netherlands, Case C-322/00, [2003] I-11267	473
Commission of the European Communities v. Federal Republic of Germany, Case C-74/91, [1992] ECR I-5437	473
Questions	474
Section 5: Judgments of the ECJ under TFEU Article 260 (ex-TEC Article 228)	474
A: Legal Nature of the Judgment of Infringement under TFEU Article 260-1 (ex-TEC Article 228-1): Declaratory Effect	475
B: Powers of the Commission and the ECJ under TFEU Article 260 Commission Communication	477
Implementation of Article 260(3) TFEUSEC (2010) 1371 final	477
Commission of the European Communities v. French Republic, supported by Czech Republic, Case 121/07, [2008] ECR I-9159	477
Commission of the European Communities v. Republic of Poland, Case C-165/08, [2009] ECR I-6843	478
Commission of the European Communities v. Hellenic Republic, Case 109/08, [2009] ECR I-4657	480
Questions	481
Reading Beyond . . . Suggested Readings	482
Chapter Eleven · Issues of Liability	483
Section 1: Liability of the Member States	483
Gerhard Köbler v. Republik Osterreich, Case C-224/01, [2003] ECR I-10239	484
Andrea Francovich and Others v. Italian Republic	486
Joined Cases C-6/90 and C-9/90, [1991] ECR I-5357	486

Brasserie du Pêcheur SA v. Federal Republic of Germany and The Queen v. Secretary of State for Transport, ex parte: Factortame Ltd and Others	488
Joined Cases C-46/93 and C-48/93, [1996] ECR I-1029	488
Questions	495
Section 2: Liability of the European Community/Union	496
TFEU Article 268	496
TFEU Article 340	496
A: The General Legal Regime of the Non-Contractual (or Delictual) Liability of the European Union/EC (TFEU Article 340-2)	497
Laboratoires pharmaceutiques Bergaderm SA, in Liquidation, and Jean-Jacques Goupil v. Commission of the European Communities, Case C-352/98P, [2000] ECR I-5291	498
Françoise-Eléonor Hanssens-Ensch v. European Community, Case 377/09, [2010] ECR I-7751	499
Schneider Electric SA v. Commission of the European Communities, Case T-351/03, [2007] ECR II-2237	500
Commission of the European Communities v. Schneider Electric SA, Case C-440/07 P, [2009] ECR I-6413	502
B: EU's Liability for Juridical Acts	503
TEU Article 5 (in part)	503
1: Action for Compensation and Damages v. Action for Annulment: Initial Hesitation	504
Plaumann & Co v. Commission of the European Economic Community, Case 25/62, [1963] ECR 95	504
2: Action for Compensation and Damages v. Action for Failure to Act	504
Frank Lamberts v. European Ombudsman, Case T-209/00, [2002] ECR II-2203	504
3: Action for Compensation and Damages v. Action for Annulment: The Schöppenstedt Formula	505
Aktien-Zuckerfabrik Schöppenstedt v. Council of the European Communities, Case 5/71, [1971] ECR 975	505
4: No Unlawful Conduct on Part of EU Institutions, yet Recovery on Unjust Enrichment	506
Masdar (UK) Ltd. v. Commission of the European Communities, Case T-333/03, [2006] ECR II-4377	506
Masdar (UK) Ltd. v. Commission of the European Communities, Case C-47/07 P, [2008] ECR I-9761	506
C: Union/Community and/or State Liability? Concurrent Liability?	507
1: State Liability and Lawful Union/Community Measures	507
Granaria BV v. Hoofdproduktschap voor Akkerbouwprodukten, Case 101/78, [1979] ECR 623	507

Hans-Otto Wagner GmbH Agrarhandel KG v. Commission of the European Communities, Case 12/79, [1979] ECR 3657	507
2: State Implementation of Unlawful Community Measures	508
R. & V. Haegeman v. Commission of the European Communities, Case 96/71, [1972] ECR 1005	508
Questions	508
Reading Beyond . . . Suggested Readings	509
Chapter Twelve · External Relations of the Union	511
Introduction	511
Section 1: Foreign Policy Elements of the Common Foreign and Security Policy	512
The EU on the World Stage — Policies, Tools, and Global Relationships	512
The European Union, a Guide for Americans, Chapter 6, p.25, 2011 http://www.eurunion.org/eu/EU-US-Relations/ EU-US-Partnership.html	512
Article 3	517
(ex-Article 2 TEU)	517
Treaty of Lisbon	517
General Provisions on the Union's External Action and Specific Provisions on the Common Foreign and Security Policy	517
Piet Feckhout, EU External Relations Law	518
2 Oxford (2012)	518
Section 2: Lisbon Treaty on EU Competence Concerning the CFSP	519
Jean-Claude Piris, The Lisbon Treaty	519
256ff Cambridge (2010)	519
TEU Article 24	520
(ex-Article 11 TEU)	520
TEU Article 25	520
(ex-Article 12 TEU)	520
TEU Article 28	521
(ex-Article 14 TEU)	521
TEU Article 29	521
(ex-Article 15 TEU)	521
TEU Article 30	521
(ex-Article 22 TEU)	521
TEU Article 31	521
(ex-Article 23 TEU)	521
Cremona, Marise, Enhanced Cooperation and the Common Foreign and Security and Defence Policies of the EU	522
(December 1, 2009). EUI Working Papers LAW No. 2009/21, available at SSRN: http://ssrn.com/abstract=1557596 , p. 8	522
European Council Conclusions	522
EUCO 21/10, 16 September 2010 http://www.consilium. europa.eu/uedocs/cms_data/docs/pressdata/en/ec/116547.pdf	522

“Unilateral Action by a Member State” European Commission v. Kingdom of Sweden	524
European Court of Justice, Case C-246/07, April 20, 2010	524
Notes and Questions	528
Section 3: Representation of the Union in External Relations	528
General Secretariat of the Council of the EU	528
November, 2009, Background, Press	
http://www.consilium.europa.eu/uedocs/cmsUpload/ Background-HighRepresentative_EN.pdf	528
The High Representative for Foreign Affairs and Security Policy/ The European External Action Service, November 2009	529
http://www.consilium.europa.eu/uedocs/cmsUpload/Background- HighRepresentative_EN.pdf	529
Anthony Luzzatto Gardner and Stuart E. Eizenstat, New Treaty, New Influence?	531
89 Foreign Affairs 104, 110 (March/April 2010)	531
Jan Wouters and Sanderijn Duquet, The EU, EEAS and Union Delegations and International Diplomatic Law: New Horizons	532
Leuven Centre for Global Governance Studies, Working Paper No. 62 — May 2011 available at http://ssm.com/abstract=1898664	532
Notes and Questions	532
Section 4: Legal Personality of the European Union	533
Jean-Claude Piris, The Lisbon Treaty	533
86–87 Cambridge (2010)	533
Declarations Annexed to the Final Act of the Intergovernmental Conference Which Adopted the Treaty of Lisbon	534
24. Declaration concerning the legal personality of the European Union	534
TEU Article 47	534
TFEU Article 335	534
(ex-Article 282 TEC)	534
TFEU Article 343	534
(ex-Article 291 TEC)	534
Executive Order 11689 — Extending Diplomatic Privileges and Immunities to the Mission to the United States of America of the Commission of the European Communities and to Certain Members Thereof	534
Codification of Presidential Proclamations and Executive Orders April 13, 1945–January 20, 1989, p. 401	534
Notes and Questions	535
Section 5: Application of International Law to the Union	536
A: Application of Treaties and Customary International Law	537
Criminal Proceedings against Jean-Claude Levy	537
Case C-158/91, [1993] ECR I-4287	537
Notes and Questions	539
“Serbian Wine” Firma A. Racke GmbH & Co. and Hauptzollamt Mainz, Case C-162/96, [1998] ECR I-3655	540

Note and Questions	542
“Frozen Commercial Assets” Yassin Abdullah Kadi et al. v. Council of the European Union and the Commission of the European Communities	543
Joined Cases C-402/5 P and C-415/05 P, [2008] ECR I-6351	543
“Airline Emissions” Air Transport Association of America v. Secretary of State for Energy and Climate change	546
European Court of Justice (Grand Chamber), Case C-366/10, 21 December 2011	546
Notes and Questions	549
B: EU Treaty-Making Powers and Procedures	550
TEU Article 37	550
Jean-Claude Piris, <i>The Lisbon Treaty</i> 259–260 Cambridge (2010)	550
TFEU Article 216	550
TFEU Article 218	551
(ex-Article 300 TEC)	551
TFEU Article 275	552
T.C. Hartley, <i>The Foundations of European Community Law: An Introduction to the Constitutional and Administrative Law of the European Community</i>	552
161 (Sixth edition) Oxford (2007)	552
Commission of the European Communities v. Council of the European Communities [The ERTA or AETR Case]	553
Case 22/70, [1971] ECR-263	553
Notes and Questions	555
Section 6: Relations with International Organizations	556
R. Frid, <i>The Relations Between the EC and International Organizations: Legal Theory and Practice</i>	556
119,169 Kluwer Law International (1995)	556
TFEU Article 220	557
(ex-Articles 302 to 304 TEC)	557
Note	557
The European Union at the United Nations 21 October 2011	557
http://www.eu-un.europa.eu/articles/en/article_9389_en.htm	557
Notes: Levels of EU Participation	558
I. Macleod, I.D. Hendry and S. Hyett, <i>The External Relations of the European Communities: A Manual of Law and Practice</i>	558
pp. 179–180 Oxford (1996)	558
Notes	559
Questions	560
Section 7: European Security and Defense Policy	560
Section 8: Relations between the European Union and the United States	561
The EU-US Partnership The European Union, A Guide for Americans	561
http://www.eurunion.org/eu/Guide-for-Americans.html ,	
28 April 2012	561
White House, National Security Strategy	564

May 2010, pp. 41–42 http://www.whitehouse.gov/sites/default/files/rss_viewer/national_security_strategy.pdf	564
U.S. Relations with the European Union http://useu.usmission.gov/transatlantic_relations.html	565
Question	566
Reading Beyond . . . Suggested Readings	566
Part II A · Economic Law	567
Introduction: A Common Market — A Single Market — An Internal Market	569
1: The Elimination of Custom Duties as between Member States; the Establishment of a Common Market; . . . an Internal Market . . .	571
Gaston Schul Douane Expeditie BV v. Inspecteur der Invoerrechten en Accijnzen, Roosendaal, Case 15/81, [1982] ECR1409	571
Echirrolles Distribution SA v. Association du Dauphiné and Others, Case C-9/99, [2000] ECR I-8207	572
Carbonati Apuani Srl v. Comune di Carrara, Case C-72/03, [2004] ECR I-8027	572
2: Establishment of the Common Customs Tariff	573
Article 31 (TFEU)	573
Council Regulation (EEC) No 2658/87 of 23 July 1987 on the Tariff and Statistical Nomenclature and on the Common Customs Tariff	573
Biochem Zusatzstoffe Handels- und Produktions GmbH v. Oberfinanzdirektion Nürnberg, Case C-259/00, [2002] ECR I-2461	574
Regulation (EC) No 648/2005 of the European Parliament and of the Council	575
Of 13 April 2005 Amending Council Regulation (EEC) No 2913/92 establishing the Community Customs Code	575
3: The Internal Market and Its Re-Launch: Towards a Single Market Act	575
A New Strategy for the Single Market At the Service of Europe's Economy and Society	576
(Report to the President of the European Commission, by Mario Monti, 9 May 2010)	576
Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions	577
Single Market Act Twelve levers to boost growth and strengthen confidence: "Working together to create new growth"/*COM/2011/0206 final*/13/04/2011[Excerpts]	577
European Commission Commission Staff Working Document Delivering the Single Market Act: State of Play	577
Brussels, 15.2.2012SWD (2012) 1 final[Excerpts]	577
Questions	580

Reading Beyond . . . Suggested Readings	580
Chapter One · Free Movement of Goods	581
The Internal Market for Goods: A Cornerstone of Europe's Competitiveness	581
Section 1: The Prohibition between Member States of Customs Duties	582
A: The Establishment of a Customs Code	582
NV Algemene Transport-en Expeditie Onderneming van Gend & Loos v. Netherlands Inland Revenue Administration, Case 26/62, [1963] ECR 1	583
Firma Denkavit Futtermittel GmbH v. Minister	584
251/78, [1979] ECR 3369	584
Questions	584
Note	585
B: The Abolition of Charges Having Equivalent Effect	585
1: The ECJ's Notion of 'Equivalent Effect' [to Custom Duties] Commission of the European Economic Community v. Grand Duchy of Luxembourg and Kingdom of Belgium	585
Joined Cases 2/62 and 3/62, [1962] ECR 425	585
Commission of the European Communities v. Kingdom of Belgium, Case 314/82, [1984] ECR 1543	586
Administration des Douanes et Droits Indirects v. Léopold Legros and Others, Case C-163/90, [1992] ECR I-4625	588
Questions	589
2: The ECJ's Notion of "Discriminatory Effect" of a Charge "Having Equivalent Effect"	589
Commission of the European Communities v. Italian Republic, Case 24/68, [1969] ECR 193	589
Michel Humblot v. Directeur des Services Fiscaux, Case 112/84, [1985] ECR 1367	591
Commission of the European Communities v. French Republic, Case 168/78, [1980] ECR 347	593
Questions	596
Section 2: The Prohibition of Quantitative Restrictions and All Measures Having Equivalent Effect	596
A: Nature, Purpose and Scope of TFEU Articles 34 and 35 (ex-TEC Articles 28–29)	596
Commission of the European Communities v. Ireland, Case 249/81, [1982] ECR 4105	597
Commission of the European Communities v. French Republic, Case C-265/95, [1997] ECR I-6990	599
Kakavetsos-Fragkopoulos AE Epexergasias kai Emporias Stafidas v. Nomarchiaki Aftodioikisi Korinthias, Case C-161/09, [2011] ECR I-915	602
Questions	603
1: Types of Measures Having Equivalent Effect	604
Commission Directive 70/50/EEC of 22 December 1969	604

[Excerpts]	604
Criminal Proceedings against Jean-Pierre Guimont, Case C-448/98, [2000] ECR I-10663	605
Lodewijk Gysbrechts, Santurel Inter BVBA, Case C-205/07, [2008] ECR I-9947	607
Questions	609
2: The “Hard Cases”: The ECJ Evolving Jurisprudence	609
Établissements Delhaize frères et Compagnie Le Lion SA v. Promalvin SA and AGE Bodegas Unidas SA	609
C-47/90, [1992] ECR I-3669	609
Procureur du Roi v. Benoît and Gustave Dassonville, Case 8/74, [1974] ECR 837	611
Rewe-Zentral AG v. Bundesmonopolverwaltung für Branntwein, Case 120/78, [1979] ECR 649	612
Criminal Proceedings against Bernard Keck and Daniel Mithouard	614
Joined Cases C-267/91 and C-268/91, [1993] ECR I-6097	614
Konsumentombudsmannen (KO) v. De Agostini (Svenska) Förlag AB and TV-Shop i Sverige AB	615
Joined Cases C-34/95, C-35/95 and C-36/95 [1997] ECR I-3843	615
Questions	617
B: Exemptions, Derogations to the Prohibition of Quantitative Measures Having Equivalent Effect: TFEU Article 36, ex-TEC Article 30	618
1: Ground of Public Morality	619
Regina v. Maurice Donald Henn and John Frederick Ernest Darby Case 34/79, [1979] ECR 3795	619
Dynamic Medien Vertriebs GmbH v. Avides Media AG, Case C-24/06, [2008] ECR I-505	621
2: Ground of Public Policy	623
3: Ground of Public Security	623
Campus Oil Limited and Others v. Minister for Industry and Energy and Others, Case 72/83, [1984] ECR 2727	623
Criminal Proceedings against Aimé Richardt and Les Accessoires Scientifiques SNC, Case C-367/89, [1991] ECR I-4621	625
Questions	626
4: Ground of Protection of Health and Life of Humans	627
Criminal Proceedings against Sandoz BV, Case 174/82, [1983] ECR 2445	627
Commission of the European Communities v. Federal Republic of Germany, Case 178/84, [1987] ECR 1227	628
Ker-Optika bt v. ÁNTSZ Dél-dunántúli Regionális Intézeté, Case C-108/09, [2010] ECR I-12213	631
Questions	633
5: Ground of Protection of Health and Life of Animals or Plants	633
Criminal Proceedings against Ditlev Bluhme, Case C-67/97, [1998] ECR I-8033	633

Commission of the European Communities v. Federal Republic of Germany, Case C-131/93, [1994] ECR I-3303	635
Questions	636
6: Ground of the Protection of National Treasures Possessing Artistic, Historic or Archaeological Value	637
Commission of the European Communities v. Italian Republic, Case 7/68, [1968] ECR 423	637
7: Ground of the Protection of Industrial and Commercial Property	638
8: TFEU Article 36 (ex-ECT Article 30): Fundamental Rights: A New Ground?	639
Questions	639
Section 3: State Liability and the Free Movement of Goods: A Restriction?	640
Brasserie du Pêcheur SA v. Bundesrepublik Deutschland and The Queen v. Secretary of State for Transport, ex parte: Factortame Ltd and Others	640
Joined Cases C-46/93 and C-48/93, [1996] ECR I-1029	640
Eugen Schmidberger, Internationale Transporte und Planzüge v. Republik Österreich, Case C-112/00, [2003] ECR I-05659	646
Questions	649
Reading Beyond . . . Suggested Readings	650
Comparative Law: A Survey of U.S. Cases	650
Environmental Concerns:	651
Safety Concerns:	651
Chapter Two · Movement of Persons	653
Introduction	653
Section 1: Free Movement of Nationals of Member States or EU Citizens	655
A: Some Texts	655
Communication from the Commission to the European Parliament and the Council on Guidance for Better Transportation and Application of Directive 2004/38/EC on the Rights of Citizens of the Union and Their Family Members to Move and Reside Freely within the Territory of the Member States	655
B: The EUCJ, Citizenship and Citizens' Rights	655
TEU/TFEU/Charter of Fundamental Rights of the European Union	656
1: Citizenship	657
Maria Martinez Sala v. Freistaat Bayern, Case C-85/96, [1998] ECR I-02691	657
Rudy Grzelczyk v. Centre d'aide sociale d'Ottignies-Louvain-la-Neuve, Case C-184/99, [2001] ECR I-6193	658
Questions	660
2: Right to Enter and to Reside: In General	661

Jean Noël Royer,	
Case 48/75, [1976] ECR 497	661
Criminal Proceedings against Florus Ariël Wijnsbeek	663
C-378/97, [1999] ECR I-6207	663
Questions	665
3: Discrimination and Nationality: In General	666
Stephen Austin Saldanha and MTS Securities Corporation v.	
Hiross Holding AG,	
Case C-122/96, [1997] ECR I-5325	666
Criminal proceedings against Horst Otto Bickel and Ulrich Franz,	
Case C-274/96, [1998] ECR I-7637	667
Roman Angonese v. Cassa di Risparmio di Bolzano SpA,	
Case C-281/98, [2000] ECR I-4139	669
Questions	670
Notes	671
4: Discrimination, Nationality and Students	671
Françoise Gravier v. City of Liège,	
Case 293/83, [1985] ECR 593	671
Vincent Blaizot v. University of Liège and Others,	
Case 24/86, [1988] ECR 379	672
Questions	673
5: Indirect Discrimination	673
Giovanni Maria Sotgiu v. Duetsche Bundespost,	
Case 152/73, [1974] ECR 153	673
Association belge des Consommateurs Test-Achats ASBL v.	
Conseil des ministres,	
Case C-236/09, [2011] ECR I-not yet published	674
C: Derogations — Restrictions	676
Yvonne van Duyn v. Home Office	676
Case 41/74, [1974] ECR 1337,	
Land Baden-Württemberg v. Panagiotis Tsakouridis	677
Case C-145/09, [2011] ECR I-11979,	
Commission of the European Communities v. Kingdom of Spain,	
Case C-114/97, [1998] ECR I-6717	679
Questions	681
Section 2: Freedom of Movement and Non-EU Citizens	682
A: Agreement of Association with Turkey; Cooperation with Morocco	682
Meryem Demirel v. Stadt Schwäbisch Gmünd,	
Case 12/86, [1987] ECR 3719	682
Hassan Fahmi and M. Esmoris Cerdeiro-Pinedo Amado v.	
Bestuur van de Sociale Verzekeringsbank,	
Case C-33/99, [2001] ECR I-2415	683
Questions	683
Note	684
B: Agreement on the European Economic Area (excerpts)1	684
C: The Amsterdam Treaty and Justice and Home Affairs	684
1: In General	684
2: Title V: Area of Freedom, Security and Justice and Other	
Policies Related to the Free Movement of Persons	685

a: The Areas Covered	685
Notes	686
Reading Beyond . . . Suggested Readings	687
Comparative Law: A Survey of U.S. Cases	687
Chapter Three · Freedom of Movement of Workers	689
Introduction	689
TFEU Article 45	689
Section 1: The Union “Worker” and His Rights under the Freedom of Movement	691
A: The “EU-Migrant” Worker for the Commission	692
B: The “EU Migrant” Worker for the EUCJ	694
Mrs. M.K.H. Hoekstra (née Unger) v. Bestuur der Bedrijfsvereniging voor Detailhandel en Ambachten, Case 75/63, [1964] ECR 177	694
Deborah Lawrie-Blum v. Land Baden-Württemberg, Case 66/85, [1986] ECR 2121	695
Union Royale Belge des Sociétés de Football Association ASBL v. Jean-Marc Bosman, et al., Case C-415/93, [1995] ECR I-4921	697
Olympique Lyonnais SASP v. Olivier Bernard, Newcastle United FC, Case C-325/08, [2010] ECR I-2177	700
Questions	702
Notes	703
C: Rights of a “Worker”	703
1: What Rights Do Migrant Workers Enjoy?	703
2: Illustrations of the Rights of a Worker	704
a: The Right to Move, to Reside and to Remain	704
Danielle Roux v. Belgian State, Case C-363/89, [1991] ECR I-273	704
Lucy Stewart v. Secretary of State for Work and Pensions, Case C-503/09, [2011] ECR I-not yet published	705
Clean Car Autoservice GesmbH v. Landeshauptmann von Wien, Case C-350/96, [1998] ECR I-2521	708
Questions	709
Notes	710
b: Right to Employment without Discrimination; Equal Treatment	710
Pilar Allué and Carmel Mary Coonan v. Universitàdegli studi di Venezia, Case C 33/88, [1989] ECR 1591	710
Anita Groener v. Minister for Education and the City of Dublin, Case C-379/87, [1989] ECR 3967	712
Questions	713
Notes	714
3: Additional Accessory Professional and Social Rights	714

Francesco Reina and Letizia Reina v. Landeskreditbank Baden-Württemberg, Case 65/81, [1982] ECR 33	714
Sylvie Lair v. Universität Hannover, Case 39/86, [1988] ECR 3161	715
4: The Right to Remain in the Host Member State	718
Arben Kaba v. Secretary of State for the Home Department, Case C-356/98, [2000] ECR I-2623	718
Questions	720
Notes	721
Section 2: The ‘Worker’s Family’	721
State of the Netherlands v. Ann Florence Reed, Case 59/85, [1986] ECR 1283	721
Centre public d’aide sociale de Courcelles v. Marie-Christine Lebon, Case 316/85, [1987] ECR 2811	723
Questions	724
Notes	725
Section 3: Derogations, Exceptions under TFEU Article 45-3 and 45-4	725
Rezguia Adoui v. Belgian State and City of Liège; Dominique Cornuaille v. Belgian State	726
Joined cases 115 and 116/81, [1982] ECR 1665	726
Commission of the European Communities v. Kingdom of Belgium, Case 149/79, [1980] ECR 3881	727
Questions	728
Notes	729
Reading Beyond . . . Suggested Readings	729
Comparative Law: A Survey of U.S. Cases	729
Chapter Four · Right of Establishment Freedom to Provide and Receive Services	731
Introduction	731
Section 1: Establishment and Services in the Internal Market	732
TFEU, Part III, Title IV, Chapter 2, Right of Establishment	732
TFEU, Part III, Title IV, Chapter 3, Services	732
A Single Market for Services	733
Quick Guide	734
Section 2: Freedoms of Establishment and Services: Scope of Application	734
A: Establishment and Services: Concepts	734
Criminal Proceedings against Alfred John Webb, Case 279/80, [1981] ECR 3305	735
Rush Portuguesa Ld ^a v. Office national d’immigration, Case C-113/89, [1990] ECR I-1417	736
The Society for the Protection of Unborn Children Ireland Ltd v. Stephen Grogan and Others, Case C-159/90, [1991] ECR I-4685	738
Questions	739
Notes	739
B.N.O. Walrave and L.J.N. Koch v. Association Union Cycliste Internationale, Koninklijke Nederlandsche Wielren Unie et Federación	

Española Ciclismo, Case C-36/74 [1974] ECR 14057	742
Union Royale Belge des Sociétés de Football Association ASBL v. Jean-Marc Bosman, Royal Club liégeois SA v. Jean-Marc Bosman and Others and Union des Associations Européennes de Football (UEFA) v. Jean-Marc Bosman	742
C-415/93, [1995] ECR; I-49218	742
Christelle Delière v. Ligue francophone de judo et disciplines associées ASBL, Ligue belge de judo ASBL, Union européenne de judo (C-51/96) and François Pacquée (C-191/97)	743
David Meco-Medina and Igo Majcen v. Commission of the European Communities, Case T-313/02, [2004] ECR II-03291	744
B: Beneficiaries and Activities	744
1: Beneficiaries	744
Johannes Henricus Maria van Binsbergen v. Bestuur van de Bedrijfsvereniging voor de Metaalnijverheid, Case 33/74, [1974] ECR 1299	744
Alpine Investments BV v. Minister van Financiën, Case C-384/93, [1995] ECR I-1141	747
The Queen v. H. M. Treasury and Commissioners of Inland Revenue, ex parte Daily Mail and General Trust plc, Case 81/87, [1988] ECR 5483	750
Centros Ltd v. Erhvervs-og Selskabsstyrelse, Case C-212/97, [1999] ECR I-1459	752
Questions	755
Notes	756
2: Activities	757
Ian William Cowan v. Trésor Public, Case 186/87, [1989] ECR 195	758
Her Majesty's Customs and Excise v. Gerhart Schindler and Jörg Schindler, Case C-275/92, [1994] ECR I-1039	759
Questions	762
Notes	762
Section 3: Derogations or Exceptions to the Freedoms of Establishment and Services	763
A: Freedom of Establishment and Services: "Exercise of Official Authority" and "Regulated Professions"	763
Jean Reyners v. Belgian State, Case 2/74, [1974] ECR 631	763
Commission of the European Communities v. Kingdom of Belgium, Case C-355/98, [2000] ECR I-1221	766
Société fiduciaire nationale d'expertise comptable v. Ministre du Budget, des Comptes publics et de la Fonction publique, Case C-119/09, [2011] ECR I-2551	768
Questions	770

Notes	771
B: Freedom of Establishment and Services and ‘Public Policy, Public Security’	771
Jean Noël Royer, Case 48/75, [1976] ECR 497	771
Criminal Proceedings against Donatella Calfa, Case C-348/96, [1999] ECR I-11	771
Questions	773
Notes	773
C: Freedom of Establishment and Services and ‘Public Health’	773
Criminal Proceedings against Dennis MacQuen and Others, Case C-108/96, [2001] ECR I-837	773
Questions	776
Notes	777
D: Freedom of Establishment and Services and ‘General Interest’: Public Order, Morality, Consumers, etc.	777
Her Majesty’s Customs and Excise v. Gerhart Schindler and Jörg Schindler, Case C-275/92, [1994] ECR I-1039	777
Konsumentombudsmannen (KO) v. De Agostini (Svenska) Förlag AB and TV-Shop i Sverige AB ¹³	778
Joined Cases C-34/95, C-35/95 and C-36/95, [1997] ECR I-3843	778
Questions	780
Notes	780
Reading Beyond . . . Suggested Readings	781
Chapter Five · Legal Profession and EU Law	783
Introduction	783
Section 1: The Legal Profession as a Regulated [Liberal] Profession	784
A: Regulated, Liberal Professions	784
Teresa Fernández de Bobadilla v. Museo Nacional del Prado and Others, Case C-234/97, [1999] ECR I-4773	784
Christiane Adam, épouse Urbing v. Administration de l’Enseignement et des Domaines, Case C-267/99, [2001] ECR I-7467	785
Christine Moegenbesser v. Consiglio dell’Ordine degli avvocati di Genova, Case C-313/01, [2003] ECR I-13467	787
Questions	788
B: Legal Profession: Establishment and Services	788
1: Original Fundamental Issues	788
John Reyners v. Belgian State, Case 2/74, [1974] ECR 631	788
Johannes Henricus Maria van Binsbergen v. Bestuur van de Bedrijfsvereniging voor de Metaalnijverheid, Case 33/74, [1974] ECR 1299	790
Ordre des Avocats au Barreau de Paris v. Onno Klopp, Case 107/83, [1984] ECR 2971	792

2: Council Directives and Regulations	793
a: Council Directive 77/249/EC	794
C: Legal Profession and the Directives	797
1: Issues of Qualifications and Diplomas	797
Irene Vlassopoulou v. Ministerium für Justiz, Bundes- und Europaangelegenheiten Baden-Württemberg, Case C-340/89, [1991] ECR I-2357	797
Commission of the European Communities v. Italian Republic, Case C-145/99, [2002] ECR I-2235	799
Questions	802
Donat Cornelius Ebert v. Budapesti Ügyvédi Kamara, Case C-359/09, [2011] ECR I-269	802
Questions	803
2: Issues of Official Authority	804
European Commission v. Kingdom of Belgium, (Case C-47/08), [2011], ECRI-4105	804
European Commission v. French Republic, (Case C-50/08), [2011], ECRI-4195	804
European Commission v. Grand Duchy of Luxembourg, (Case C-51/08), [2011], ECRI-4231	804
European Commission v. Republic of Austria, (Case C-53/08), [2011], ECRI-4309	804
European Commission v. Federal Republic of Germany (Case C-54/08), [2011], ECRI-4355,	804
European Commission v. Hellenic Republic (Case C-61/08), [2011] ECR I-4399,	804
Opinion of Advocate General Cruz Villalón	804
Section 2: Legal Profession: Issues of the Practice of Law	810
A: The Practice of the Profession of Lawyer	810
Claude Gullung v. Conseil de l'ordre des avocats du barreau de Colmar et de Saverne, Case 292/86, [1988] ECR 111	810
Reinhard Gebhard v. Consiglio dell'Ordine degli Avvocati e Procuratori di Milano, Case C-55/94, [1995] ECR I-4165	812
Edyta Joanna Jakubowska v. Alessandro Maneggia, Case C-225/09, [2010] ECR I-12329	814
European Commission v. Italian Republic, Case C-565/08, [2011] ECR I-2101	816
Questions	817
Notes	817
B: Legal Professional Privilege or "LPP"	818
Akzo Nobel Chemicals Ltd and Akcros Chemicals Ltd v. European Commission, Case C-550/07 P, [2010] ECR I-8301	818
Questions	821
C: Legal Profession and the Law of Competition	821
J.C.J. Wouters, J.W. Savelberg and Price Waterhouse Belastingadviseurs BV v. Algemene Raad van de	

Nederlandse Orde van Advocaten, Case C-309/99, [2002] ECR I-1577	821
Federico Cipolla and Others v. Rosaria Fazari, née Portolese, and Roberto Meloni	827
Joined Cases C-94/04 and C-202/04, [2006] ECR I-11421	827
Questions	828
Comparative Law: A Survey of U.S. Cases	829
Chapter Six · Freedom of Movement of Capital: The European Financial Area	831
Section 1: Free Circulation of Capital	832
A: Initial Period (1957–1987): Directives of 1960, 1962 and 1986	832
1: The Slow Beginnings of the Free Movement of Capital	832
First Directive for the Implementation of Article 67 of the EECT (O.J. L No 43, 12.7.1960, 921/60)	832
Second Council Directive of 18 December 1962	833
Adding to and Amending the First Directive for the Implementation of Article 67 of the Treaty (63/21/EEC, O.J. No 9, 22.1.1963, 62/63)	833
Council Directive 1986/566/EEC of 17 November 1986	833
Amending the First Directive of 11 May 1960 for the Implementation of Article 67 of the Treaty	833
2: Gradual Liberalization within a Limited Legal Framework	834
Graziana Luisi and Giuseppe Carbone v. Ministero del Tesoro	834
Joined cases 286/82 and 26/83, [1984] ECR 377	834
Pascal Van Eycke v. ASPA N.V., Case C-267/86, [1988] ECR 4769	835
Commission of the European Communities v. Italian Republic, Case C-174/04, [2005] ECR I-4933	835
B: Economic and Monetary Union: From 1987 to Present Time	837
1: What Is a Movement of Capital?	837
Manfred Trummer and Peter Mayer, Case C-222/97, [1999] ECR I-1661	837
2: National Income Taxation as a Barrier to the Free Movement of Capital	839
Staatssecretaris van Financiën v. B.G.M. Verkooijen, Case C-35/98, [2000] ECR I-4071	839
Petri Manninen, Case C-319/02, [2004] ECR I-7477	841
3: “Golden Shares”: Unacceptable Restriction to the Free Circulation of Capital	845
Commission of the European Communities v. Italian Republic, Case C-174/04, [2005] ECR I-4933	845
Questions	846
Commission of the European Communities v. Federal Republic of Germany, Case C-112/05, [2007] ECR I-8995	847
Note	849
Section 2: Coordination of Financial Services	849
A: The Financial Services Action Plan (FSAP)	850

White Paper Financial Services Policy 2005–2010	850
(SEC (2005) 1574) COM (2005) 629	850
B: The EC Supervisory System	851
C: Freedom to Provide Services and to Establish Branches	851
Questions	852
Section 3: The New “Organizational Structure”	852
A: The So-Called Lamfalussy Report	853
Final Report of the Committee of Wise Men on the Regulation	
of European Securities Markets	853
15 February 2001, (Chairman: Alexandre Lamfalussy)	853
B: Supervisors’ Liability: The Banking Sector Example	855
Peter Paul, Cornelia Sonnen-Lütte, Christel Mörkens v.	
Bundesrepublik Deutschland,	
Case C-222/02, [2004] ECR I-9425	855
C: Restoring the Health and Stability of the EU Financial Sector	857
European Commission, DG Internal Market & Services	
[Booklet 2011]	857
Questions	861
Reading Beyond . . . Suggested Readings	861
Chapter Seven · Common Commercial Policy (External Trade and Foreign	
Direct Investment)	863
Introduction	863
Section 1: Scope and Function of EU Commercial Relations	865
U.S. Trade Representative, 2012 National Trade Estimate	
Report on Foreign Trade Barriers	865
p. 143, http://www.ustr.gov/about-us/press-office/reports-and-	
publications/2012-1	865
EU Council Conclusions on EU’s Approach to Trade, Growth	
and Development in the Next Decade	866
315th Foreign Affairs (Trade) Council meeting, 16 March	
2012 http://www.consilium.eu/Newsroom	866
European Commission: External Trade: Introduction	866
Formerly, http://www.europa.eu.int/scadplus/leg/en/lvb/r11000.	
htm , visited 2005	866
World Trade Organization 2011 Trade Policy Review:	
European Communities	868
The Secretariat’s Report,	
http://www.wto.org/english/tratop_e/tpr_e/tp348_e.htm	
Tenth Review, WTO Secretariat Report WT/TPR/S/214	868
European Commission: DG Trade: Statement about Mission	870
http://ec.europa.eu/trade/about/mission/Brussels,	
December 1, 2009	870
Section 2: EU Competences in the Trade Field	871
Lisbon Treaty: Key Trade Provisions	871
The European Union’s Trade and Investment Policy after the	
Treaty of Lisbon	872

Rafael Leal-Arcas, 11 J. of World Investment and Trade 463, 465ff (2010)available at SSRN: http://ssrn.com/abstract++ 1665202	872
Questions	874
Section 3: The WTO and the European Union	874
Re The Uruguay Round Treaties	874
ECJ Opinion 1/94, [1994] ECR I-5267And [1995] 1.C.M.L.R. 205	874
Agreement Establishing the World Trade Organization	879
http://www.wto.org/english/docs_e/docs_e.htm	879
Notes and Questions	881
Section 4: The Common External Tariff, Law and Policy, TREATY OF LISBON, Title II Free Movement of Goods	882
Council Decision of 22 December 1994 Concerning the Conclusion on Behalf of the European Community, as Regards Matters Within Its Competence, of the Agreements Reached in the Uruguay Round Multilateral Negotiations (1986–1994) 94/800/EC)	882
O. J. L 336 of December 12, 1994	882
European Commission, Proposal for a Regulation of the European Parliament and of the Council Applying a Scheme of Generalized Tariff Preferences	886
Brussels, May 5, 2011 COM (2011) 241 final	886
Note	887
EU Commission: Wider Agenda — Environment http://ec.europa.eu/trade/wider-agenda/environment/ March 23, 2009	887
Environment: Bilateral and Regional Cooperation http://ec.europa.eu/environment/international_issues/ bilateral_en.htm , May 3, 2010	888
EU Commission: Wider Agenda — Labor http://ec.europa.eu/trade/wider-agenda/labour/ , December 19, 2009	889
Notes on Bilateral and Regional Trade Relations	889
Section 5: Customs Policy and Administration	891
EU Customs strategy http://ec.europa.eu/taxation_customs/customs/policy_issues/ customs_strategy/index_en.htm April 24, 2010	891
Regulation (EC) No 450/2008 of the European Parliament and of the Council of 23 April 2008 Laying Down the Community Customs Code (Modernized Customs Code)	892
O.J.E.U. L 142/1, June 4, 2008	892
Section 6: The Common Commercial Policy in the Courts	893
“Rough Diamonds” Diamantarbeiders v. nv Indiamex	893
Joined Cases 37 and 38–73, [1973] ECR-1609	893
“Canned Tuna from Asia”Kingdom of Spain v. Council of the European Union, Case C-342/03, [2005] ECR I-1975	895

“Cell Phones and Public Safety” Prefetto Provincia di Cuneo v. Silvano Carbone, Case C-296/00, [2002] ECR I-4657	896
“Counterfeit or Pirated Goods” The Polo/Lauren Company LP v. PT. Dwidua Langgeng Pratama International Freight Forwarders, Case C-383/98, [2000], ECR I-2519	897
Notes and Questions	899
TEC Article 30 (now TFEU Article 36)	900
Section 7: Public Health Issues, Enforcement Measures	900
“Hormone Grown Beef” WTO Case: EC Measures Concerning Meat and Meat Products (Hormones)	900
WTO Appellate Body Report, European Communities, Approved 16 January, 1998WT/DS26/AB/R. WT/DS48/AB/R	900
Note	902
Note	903
WTO Authorizes Trade Retaliation against EU in Beef Case USIS Washington File, July 26, 1999, Wendy Lubetkin, USIA European Correspondentwww.usia.gov/	903
Notes and Questions	904
Europe Ends Beef Trade War with US, Canada http://www.eubusiness.com/news-eu/us-canada-trade.fon/ 14 March 2012	906
Section 8: Foreign Direct Investment (FDI)	906
A: EU International Investment Policy	907
Towards a Comprehensive European International Investment Policy	907
European Commission, Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the RegionsCOM (2010)343 final, July 7, 2010	907
European Commission, Trade Topics: Investment http://ec.europa.eu/trade/creating-opportunities/trade-topics/ investment/ visited June 14, 2012	909
Federico Ortino and Piet Eeckhout, “Towards an EU Policy on Foreign Direct Investment”, in Andrea Biondi, Piet Eckhout and Stefanie Ripley, EU Law after Lisbon	910
312, 324, Oxford 2012	910
Statement of the European Union and the United States on Shared Principles for International Investment, April 10, 2012	911
http://www.ustr.gov/webfm_send/3337	911
EU Takes Key Step to Provide Legal Certainty for Foreign Investors	912
European Commission, Press Release 21 June 2012 http:// trade.ec.europa.eu/doclib/press/index.cfm?id=808	912
B: Bilateral Investment Agreements	913

Christoph Herrmann, The Treaty of Lisbon Expands the EU's External Trade and Investment Powers	913
14 ASIL Insights No. 28, 5–6 (2010)	913
Commission of the European Communities v. Kingdom of Sweden, Case C-249/06, [2009] ECR I-1335	913
Note	915
European Commission, Proposal for a Regulation of the European Parliament and of the Council Establishing Transitional Arrangements for Bilateral Investment Agreements between Member States and Third Countries	916
COM (2010)344 final, 2010/0197 (COD), July 7, 2010	916
Notes	918
Nikos Lavranos, Bilateral Investment Treaty (BITs) and EU Law	918
ESIL Conference 2010 available at SSRN: http://ssrn.com/abstract=1683348	918
Markus Krajewski, Investment Guarantees and International Obligations to Reduce Poverty: A Human Rights Perspective available at SSRN: http://ssrn.com/abstract=1981747 or http://dx.doi.org/10.2139/ssrn.1981747 January 8, 2012	919
Notes and Questions	919
Reading Beyond . . . Suggested Readings	920
Trade	920
Foreign Direct Investment	920
Part II B. · Competition	923
Introduction: Foundations and Objectives of the EU/EC Policy on Competition	925
Section 1: Introduction	925
Internal or Single Market and Competition	925
XXIX Report on Competition Policy, 1999	926
Forward by Professor Mario Monti, Commissioner for competition policyp. 7 and Introduction, pp. 19, 21–22	926
Competition Policy in Europe and the Citizen	927
European Commission: Introduction, A brief outline	927
Report from the Commission Report on Competition Policy 2010 {SEC (2011) 690 final}	928
40th Anniversary of the Report on Competition Policy Competition Policy: An Asset of the European Union	928
Section 2: Legal Foundations and Regulatory Scheme of Competition Law	930
Metro SB v. Commission of the EC, Case 26/76 [1977] ECR 1875	931
Questions	933
Comparative Law: A Survey of U.S. Legislation	933
Chapter Eight · Article 101 Prevention, Restriction, and Distortion of Competition	935
Article 101	935
Competition: Its Meaning	936
Protocol (No. 27)	936

Metro SB-Großmärkte GmbH & Co. KG v. Commission of the European Communities, Case 26/76, [1977] ECR 1875	936
Société Technique Minière (L.T.M.) v. Maschinenbau Ulm GmbH (M.B.U.), Case 56/65, [1966] ECR 235	936
Questions	938
Section 1: General Prohibition: Conditions	938
A: “Undertakings” and “Associations of Undertakings”	938
1: ‘Undertaking’	938
a: Concept	938
Hydrotherm Gerätebeau GMBH v. Compact and Officine Sant’ Andrea and Dottore Ingegnerie Mario Androli, Case 170/83, [1984] ECR 2999	939
Alliance One International, Inc. v. European Commission 9 September 2011, Case T-25/06, [2011] ECR II-n.y.p.; Appeal C-593/11P- n.y.p.	940
Arkema SA v. European Commission, Case C-520/09P, [2011] ECR I-n.y.p.	940
b: Exceptions	941
Christian Poucet v. Assurance Générales de France et Caisse Mutuelle Régionale du Languedoc-Roussillon 17 February 1993, Case C-159/01 and C-160/91, [1993] ECR I-637	941
c: Natural Persons Can Be Considered as ‘Undertakings’ Commission Decision of 2 April 2003 Relating to a Proceeding Pursuant to Article 81 of the EC Treaty, (Case COMP/C. 38.279/F3-French beef)	943
2: ‘Association of Undertakings’: Concept and Illustrations	944
Commission of the European Communities v. Italian Republic, Case C-35/96, [1998] ECR I-3851	944
J.C.J. Wouters, J.W. Savolberg and [Other] v. Algemene Raad van de Nederlandse Orde van Advocaten, Case C-309/99, [2002] ECR I-1577	946
B: Prohibited Types or Modes of Restriction or Distortion of Competition: Agreements, Decisions, Concerted Practices . . .	947
1: Agreements	948
Bureau National Interprofessionnel du Cognac v. Guy Clair, Case 123/83, [1985] ECR 391	948
BMW Belgium and Others v. Commission of the European Communities	950
Joined Cases 32/78, 36/78 to 82/78, [1979] ECR 2435	950
2: Parallel Conduct	951
Ahlström Osakeyhtiö and Others v. Commission of the European Communities (Wood Pulp 2)	951
Joined Cases C-89/85, C-104/85, C-114/85, C-116/85, C-117/85 and C-125/85 to C-129/85, [1993] ECR I-1307	951
3: Recommendations	954
4: Cartels	955

Commission Decision of 10 December 2003 Relating to a Proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement, Case COMP/E-2/37.857-Organic Peroxides (C (2003) 4570)	955
ACF Chemiefarma NV v. Commission of the European Communities (The Quinine Case or the Gentlemen Agreement Case), Case 41/69, [1970]	661 956
Aalborg Portland A/S, Irish Cement Ltd, Ciments Français SA, Italcementi — Fabbriche Riunite Cemento SpA, Buzzi Unicem SpA and Cementir — Cementerie del Tirreno SpA v. Commission of the European Communities	959
Joined cases C-204/00 P, C-205/00 P, C-211/00 P, C-213/00 P, C-217/00 P, C-219/00 P [2004] ECR I-123	959
Questions	961
Notes	962
5: Agreement(s) and/or Concerted Practices?	962
Commission Decision (2001/663/EC) of 15 June 2001 Relating to a Proceeding under Article 101 of the Treaty and Article of the EEA Agreement	962
COM P/34.950-ECO-Emballages OJ L 233, 31/08/2001 p. 0037–0048	962
Case COMP/E-1/37.512-Vitamins Commission Decision of 21 November 2001	963
OJ L 6, 10.1.2003, P1-77	963
Questions	963
C: Object or Effect of Agreements, Decisions, Concerted Practices	964
1: Object or Effect of Agreements, Decisions and Concerted Practices	965
a: Franchise Agreement	965
Pronuptia de Paris GmbH v. Pronuptia de Paris Irmgard Schillgallis, Case 161/84, [1986] ECR 353	965
b: Supply Agreements and Quotas	968
Stergios Delimitis v. Henninger Bräu AG, Case C-234/89, [1991] ECR I-935	968
Courage Ltd v. Bernard Crehan and Bernard Crehan v. Courage Ltd. and Others, Case C-453/99, [2001] ECR I-6297	970
Football Association Premier League Ltd, NetMed Hellas SA, Multichoice Hellas SA v. QC Leisure, David Richardson . . . Derek Owen (C403/08) and Karen Murphy v. Media Protection Services Ltd (C-429/08)	972
Joined Cases C-403/08 and C-429/08, [2011] ECR I-n.y.p.	972
Judgement of the Court (Grand Chamber)	972
4 October 2011 [Excerpts from OJC 347 from 26.11.2011, p. 2]	972
Questions	973
Notes	974
2: Distinction between Horizontal and Vertical Agreements	974

D: Effect on Trade between Member States	976
1: Agreement Prohibiting Re Export and Partitioning the EU Market	976
Etablissements Consten S.à.R.L. and Grundig-Verkaufs-GmbH v. Commission of the European Economic Community	976
Joined Cases 56 and 58/64, [1966] ECR 299	976
BMW Belgium and Others v. EC Commission	980
Joined Cases 32/78, 36/78 to 82/78, [1979] ECR 2435	980
Glaxosmithkline Services Unlimited v. Commission (Pricing of pharmaceuticals and general sales conditions)	980
Case T-168/01, [2006] ECR II-2969	980
Appeals: Cases C-501/06 P, C-513/06 P, C-515/06 P and C-519/06 P, [2009] ECR I-9291	980
2: Concertation between Undertakings Inside and Outside the EU	981
Ahlström Osakeyhtiö and Others v. Commission of the European Communities (Wood Pulp 2)	981
Joined Cases C-89/85, C-104/85, C-114/85, C-116/85, C-117/85 and C-125/85 to C-129/85, [1993] ECR I-1307	981
Commission Notice Guidelines on the Effect on Trade Concept Contained in Articles 81 and 82 of the Treaty (TFEU 101 and 102)	982
(2004/C 101/07; O J C 101/81, 27.4.2004) (Text with EEA relevance)SUMMARY from the EU Commission site (April 2011)	982
Commission Decision of 9 August 2001 Relating to a Proceeding under Article 81 of the EC Treaty (TFEU Art. 101) and Article 53 of the EEA Agreement, (Case NO COMP/29.373-Visa International)(2001/782/EC) O J L293/24, 10.11.2001	984
Commission Decision of 29 September 2004 Relating to a Proceeding under Article 81 of the EC Treaty (TFEU, Art. 101), (Case COMP/C.37.750/B2-Brasseries Kronenbourg-Brasseries Heineken)(2005/503/EC) O J L 184/57, 15.7.2005	984
Questions	985
Notes	986
Section 2: Nullity [TFEU Article 101 (2)]	986
Exemptions [TFEU Article 101(3)]	986
A: Nullity under TFEU Article 101(2)	986
ECO Swiss China Time Ltd. v. Benetton International NV, Case C-126/97, [1999] ECR I-3055	987
Courage Ltd v. Bernard Crehan and Bernard Crehan v. Courage Ltd and Others, Case C-453/99, [2001] ECR I-6297	987
Questions	988
Notes	988
B: Individual Exemptions — Negative Clearance TFEU Art. 101(3)	988
Commission Decision of 23 July 2003 Relating to a Proceeding Pursuant to Article 81 of the EC Treaty and Article 53 of the EEA Agreement	990

(COMP/C.2-37.398 — Joint selling of the commercial rights of the UEFA Champions League) O J L 291/25, 8.11.2003 (2003/778/EC)	990
2001/782/EC: Commission Decision of 9 August 2001 Relating to a Proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement, (Case No COMP/29.373 — Visa International)(Text with EEA relevance)OJ L 293, 10/11/2001 pp. 24–41	992
2002/914/EC: Commission Decision of 24 July 2002 Relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement(Case No Comp/29.373 — Visa International — Multilateral Interchange Fee) (Text with EEA relevance)	992
C: Block Exemptions	992
White Paper on Modernisation of the Rules Implementing Articles 85 and 86 of the EC Treaty (TFEU 101 and 102)	992
Commission Programme No 99/027. Com (99) 101 final, 28 April 1999	992
Questions	996
Reading Beyond . . . Suggested Readings	996
Comparative Law: A Survey of U.S. Cases	997
Vertical Restraints	997
Horizontal Restraints	997
Chapter Nine · Article 102 Abuse of a Dominant Position	999
Introduction	999
TFEU Article 102 (ex-Article 82)	1000
Competition Policy in Europe and the Citizen, European Commission	1001
2000, p. 15	1001
Section 1: Dominant Position	1002
A: Dominant Position	1002
1: Single or Individual Dominance	1003
The Chiquita Banana Case: United Brands v. Commission	1003
76/353/EEC: Commission Decision of 17 December 1975 Relating to a Procedure under Article 86 of the EEC Treaty (OJ L 95, 09.04.1976, pp. 1–20)	1003
76/642/EEC: Commission Decision of 9 June 1976 Relating to a Proceeding under Article 86 of the Treaty Establishing the European Economic Community	1003
(Hoffmann-La Roche group)	1003
Hoffmann — La Roche & Co. AG v. Commission of the European Communities	1004
Vitamins Case, Case 85/76, [1979] ECR 461	1004
2000/12/EC: Commission Decision of 20 July 1999 Relating to a Proceeding under Article 102 (ex-Article 82) of the EC Treaty and Article 54 of the EEA Agreement	1005
(1998 Football World Cup) OJ L 5, 08.01.2000, pp. 55–74	1005

Commission Decision of 20 June 2001 Relating to a Proceeding Pursuant to Article 102 (ex-Article 82) of the EC Treaty	1006
COMP/E-2/36.041/PO-Michelin: 2002/405/EC (OJ L 143, 31.5.2002)9	1006
2001/892/EC: Commission Decision of 25 July 2001 Relating to a Proceeding under Article 102 (ex-Article 82) of the EC Treaty	1006
COMP/C-1/36.915-Deutsche Post AG OJ L 331, 15.1.2001	1006
NV Nederlandsche Banden Industrie Michelin v. Commission of the European Communities, Case 322/81, [1983] ECR 3461	1007
2: Collective or Joint Dominance	1007
Judgment of the Court of First Instance (First Chamber) of 10 March 1992 — Società Italiana Vetro SpA, Fabbrica Pisana SpA and PPG Vernante Pennitalia SpA v. Commission of the European Communities	1008
Joined cases T-68/89, T-77/89, and T-78/89 — ECR 1992 II-01403	1008
Airtours plc v. Commission, Case T-342/99, [2002], ECR II-2585	1009
B: The Relevant Market and the Market Share of the Undertaking Concerned	1011
C: Some Leading Cases	1012
1: The “Bananas” Markets	1012
Commission Decision No 76/353/EEC of 17 December 1975 Relating to a Procedure under Article 86 (102) of the Treaty (OJ L 95, 09.04.1976, p.1)11	1012
United Brands Company and United Brands Continental BV v. Commission of the European Communities, Case 27/76, [1978] ECR 207	1015
Judgment of the Court (Fifth Chamber) of 14 November 1996, Case C-333/94P, [1996] ECR I-5951	1018
Microsoft Corp. v. Commission September 17, 2007	1021
Judgment of the General Court (Grand Chamber) Case T-201/04, [2007] ECR II-3601-403414	1021
Questions	1023
Confédération européenne des associations d’horlogers-réparateurs (CEAHR) v. European Commission	1024
Judgment of the GENERAL COURT (4th Chamber) 15 December 2010Case T-427/08, [2010] ECR II-5865Annulment of Commission Decision C (2008) 3600 of 10 July 2008 rejecting the complaint lodged by the applicant in Case COMP/E-1/39097	1024
Questions	1028
Notes	1029
Section 2: Abuses of a Dominant Position	1029
A: Abuse: Meaning	1029
Hoffman-La Roche & Co. AG v. Commission of the European Communities, Case 85/76, [1979] ECR 461	1030

The Application of Articles 85 & 86 (Now TFEU Articles 101 and 102) of the EEC Treaty by National Courts in the Member States	1030
European Commission, Directorate General IV — Competition Brussels, July 1997	1030
1: Types of Abuse of a Dominant Position: ECT Article 102 (ex-Article 82) (a-d) and Beyond	1031
a: “Directly or Indirectly Imposing Unfair Purchase or Selling Prices or Other Unfair Trading Conditions”	1031
Commission Decision of 17 December 1975	1031
Relating to a Procedure under Article 86 (now Article 102) of the Treaty(Chiquita Bananas Case)16	1031
United Brands Company and United Brands Continental BV v. Commission of the European Communities (Chiquita Bananas), Case 27/76, [1978] ECR 207	1033
AKZO Chemie BV v. Commission of the European Communities, Case C-62/86, [1991] ECR I-3359	1036
France Télécom SA v. Commission of the European Communities, Case C-202/07 P [2009] ECR I-2369	1038
Questions	1043
b: “Limiting Production, Markets or Technical Development to the Prejudice of Consumers”	1043
Hilti AG v. Commission of the European Communities, Case T-30/89, [1991] ECR II-1439	1043
Hoffman-La Roche & Co. AG v. Commission of the European Communities, Case 85/76, [1979] ECR 461	1046
Radio Telefis Eireann (RTE) and Independent Television Publications Ltd (ITP) v. Commission of the European Communities	1048
(The ‘Magill judgment’)Joined Cases C-241/91 P and C-242/91P, [1995] ECR I-74319	1048
c: Tying and Bundling of Products	1050
Commission Decision of 24.03.2004 Relating to a Proceeding under Article 102 (ex-82) of the EC Treaty (Comp/C-3/37.792 Microsoft)	1051
Judgment of the General Court (Grand Chamber)Microsoft Corp. v. Commission September 17, 2007, Case T-201/04, [2007] ERC II-3601	1052
Questions	1063
Notes	1064
d: “Applying Dissimilar Conditions to Equivalent Transactions with Other Trading Parties, Thereby Placing Them at a Competitive Disadvantage” or Exclusive Dealing and Loyalty Bonuses	1064
NV Nederlandsche Banden Industrie Michelin v. Commission of the European Communities, Case 322/81, [1983] ECR 3461	1064

United Brands Company and United Brands Continental BV v. Commission, Case 27/76, [1978] ECR 207	1066
Questions	1068
Notes	1068
e: “Making the Conclusion of Contracts Subject to Acceptance by the Other Parties of Supplementary Obligations Which, by Their Nature or According to Commercial Usage, Have No Connection with the Subject of Such Contracts”	1068
Centre Belge d’Études de Marché-Télémarketing (CBEM) v. SA Compagnie Luxembourgeoise de Télédiffusion (CLT) and Information Publicité Benelux (IPB), Case 311/84, [1985] ECR 3261	1068
Question	1069
Notes	1069
2: Beyond ECT Article 102 (ex-Article 82) (a-d); Other Types of “Abuse of a Dominant Position”: Refusal to Supply, Essential Facilities. . . .	1070
Istituto Chemioterapico Italiano S.p.A. and Commercial Solvents Corporation v. Commission of the European Communities	1070
Joined Cases 6 and 7/73, [1974] ECR 223	1070
Oscar Bronner GmbH & Co. KG v. Mediaprint Zeitungs- und Zeitschriftenverlag GmbH & Co. KG, and Others, Case C-7/97, [1998] ECR I-7791	1071
Questions	1074
Notes	1075
3: Abuse of a Dominant Position and Intellectual/Industrial/ Commercial Property Rights	1075
Microsoft Corp. v. Commission September 17, 2007 Judgment of the General Court (Grand Chamber) Case T-201/04, 2007 ECR II-3601	1076
Questions	1078
Deutsche Grammophon Gesellschaft mbH v. Metro-SB- Großmärkte GmbH & Co. KG, Case 78/70, [1971] ECR 487 ([8] to [13])	1078
Centrafarm BV et Adriaan de Peijper v. Sterling Drug, Inc., Case 15/74, [1974] ECR 1147 ([3] to [15])	1078
EMI Records Limited v. CBS United Kingdom Limited, Case 51/75, [1976] ECR 811([6], [25] to [27], [35] to [39])	1078
Centrafarm BV v. American Home Products Corporation, Case 3/78, [1978] ECR 1823 ([6] to [12], [17] to [22])	1078
Parke, Davis and Co. v. Probel, Reese, Beintema-Interpharm and Centrafarm, Case 24/67, [1968] ECR 55 (pages 71 to 73)	1078
Centrafarm BV et Adriaan de Peijper v. Sterling Drug Inc., Case 15/74, [1974] ECR 1147 ([5] to [15])	1079

Ministère public v. Jean-Louis Tournier, Case 395/87, [1989] ECR 2521([7], [16] to [20], [26], [38] to [46])	1079
Consorzio Italiano della Componentistica di Ricambio per Autoveicoli and Maxicar v. Régie Nationale des Usines Renault, Case 53/87, [1988] ECR 6039 ([7], [10] to [18])	1079
IMS Health GmbH & Co. OHG v. NDC Health GmbH & Co. KG, Case C-418/01, [2004] ECR I-5039 ([30], [34] to [38], [49], [52])	1079
4: Abuse a Dominant Position Acquired through a Merger	1079
Europemballage Corporation and Continental Can Co., Inc. v. Commission of the European Communities, Case 6/72, [1973] ECR 215	1079
Reading Beyond . . . Suggested Readings	1081
Looking beyond 2011	1081
Commission Decision: Telekomunikacja Polska 22 June 2011 Memo/11/444	1081
Comparative Law: A Survey of U.S. Cases	1082
Tying-Exclusive Dealing-Leveraging	1082
Predatory Pricing	1082
Public, State Undertakings: A Survey of U.S. Cases	1083
Chapter Ten · Concentration and Merger	1085
Introduction	1085
Europemballage Corporation and Continental Can Company Inc. v. Commission of the European Communities, Case 6/72, [1973] ECR 2156	1086
Questions	1089
Notes	1089
Section 1: Merger and Concentration: European Union Perspective	1089
A: Merger and Concentration in EU Law: Meanings	1089
B: EU Control/Regulation of Mergers or Concentrations	1090
1: Policy Reasons for Controlling Concentrations	1090
2: The Long Story of Merger or Concentration Control in the EU	1091
3: Inefficient Mergers v. Efficient Mergers	1091
4: The Economic Philosophy behind the Merger Regulation	1092
5: The Scope of Application of Articles 101 and 102 TFEU after the enactment of the Merger Regulation	1093
a: Test for Prohibiting a Merger: Since 2004	1093
b: The One-Shop-Stop of Merger Control in the EU	1093
Speech by Mr. Mario Monti European Commissioner	1094
Review of the EC Merger Regulation(Speech/02/252, Date: 04/06/2002)	1094
Communication from the Commission to the Council	1095
Report on the functioning of Regulation No 139/2004	1095
Department of Justice International Antitrust in the 21st Century: Cooperation and Convergence	1097

Address by CHARLES A. JAMES, Assistant Attorney General Antitrust Division, U.S. Department of Justice October 17, 2001	1097
6: Some Applicable Legislation and Guidelines or Notices on European Competition Law	1098
Rules Applicable to Mergers (ed April 2010)	1098
Council Regulation No 139/2004 of 20 January 2004 on the Control of Concentrations between Undertakings (The EC Merger Regulation or EMR)	1099
(Text with EEA relevance) OJ L 024, 29/01/2004, p. 0001–0022 [Selected Excerpts ²⁹]	1099
Section 2: Decisions of the Commission	1101
A: Creation of a Dominant Position by a Concentrative Joint-Venture	1101
Commission Decision 91/619/EEC, 2 October 1991	1101
Aerospatiale-Alenia/de Havilland O.J. L 334, 05/12/1991 p. 42–61	1101
B: Increase of a Dominant Position and Approval of a Merger Subject to Obligations/Conditions	1103
Commission Decision 97/816/EC, 30 July 1997	1103
Boeing/McDonnell Douglas O.J. L 336, 08/12/1997, p. 16–47	1103
Commission Decision 97/816/EC, 30 July 1997	1104
Boeing/McDonnell Douglas O.J. L 336, 08/12/1997, p. 16–47 [Excerpts]	1104
Questions	1108
Notes	1108
C: Merger of Airline Companies	1109
AirLingus/Ryanair, Case No COMP/M.4439 — Ryanair/Aer Lingus (June 27, 2007)	1109
Aer Lingus Group plc v. European Commission, Ryanair Holdings plc, Case T-411/07, [2010] ECR II-3691	1119
Questions	1122
Section 3: Mergers	1122
A: Merger between Competitors in a Collective Dominant Position	1122
French Republic and SCPA and EMC v. Commission of the ECs	1123
Joined Cases C-68/94 and C-30/95, [1998] ECR I-1375	1123
Gencor Ltd v. Commission of the European Communities	1125
Case T-102/96, [1999] ECR II-753, B: Collective Dominance and Mergers: Assessment and Evidence	1129
Airtours plc v. Commission	1129
Court of First Instance (Fifth Chamber, extended composition) Case T-342/99, [2002] ECR II-2585	1129
Questions	1132
Commission of the European Communities v. Tetra Laval BV, Case C-12/03 P, [2005] ECR I-987	1132
Commission Decision 2004/124/EC, Case No. COMP/M. 2416-Tetra Laval/Sidel	1132
Commission of the European Communities v. Tetra Laval BV, Case C-12/03 P, [2005] ECR I-987 [And prior cases]	1133

Questions	1138
Notes	1139
C: Examples of Decisions to Amend, Initiate, Not to Oppose under Council Regulation No. 139/2004 and Commission Regulation No 802/2004	1140
1: Decisions by the Commission	1140
(1) Commission Decision of 13 July 2005 Amending the Decision 2002/191/EC Declaring a Concentration to Be Compatible with the Common Market and the EEA Agreement (Case COMP/M.2139 — Bombardier/ADtranz)	1140
(2005/907/EC; O. J. L 329/35, 16.12.2005)	1140
Opinion of the Advisory Committee on Concentrations Given at Its 133rd Meeting on 29 June 2005 Concerning a Draft Decision Relating to Case COMP/M.2139 — Bombardier/ ADtranz	1140
(2005/C 321/03; O. J. C 321/3, 16.12.2005)	1140
Final Report of the Hearing Officer in Case COMP/M.2139 — Bombardier/ADtranz	1140
(2005/C 321/02; O. J. C 321/2, 16.12.2005)	1140
(2) Decision to Initiate Proceedings(Case COMP/M.3975 — Cargill/Degussa Food Ingredients)	1140
(3) Decision Not to Oppose (Case COMP/M.4006 — Crédit Agricole/Banca Intesa/Nextra Investment Management)	1141
(2006/C 11/13; O.J. C 11/12, 17.1.2006)	1141
2: Member States' Actions and Measures	1141
Questions	1141
Notes	1142
Reading Beyond . . . Suggested Readings	1142
Comparative Law: A Survey of U.S. Cases	1142
Chapter Eleven · Enforcement of Competition Law	1143
Introduction	1143
Report from the Commission	1143
Introduction Report from the CommissionEU Competition LawFramework — Implementing LegislationRules Applicable to Antitrust Enforcement	1145
Section 1: Enforcement of the Competition Law under Articles 101 and 102 TFEU and Council Regulation (EC) No 1/9003	1147
Decision of the President of the European Commission October 13, 2011	1148
Application of Articles 101 and 102 TFEU (Formerly Articles 81 and 82 of the EC Treaty) ⁶	1151
European Competition Network (ECN)	1152
Cooperation between the Commission and National Courts	1153
Section 2: Enforcement of the Competition Law: Illustrations	1154
A: Inspection-Investigation-Proceedings	1154
1: Inspections: Unannounced	1154
a: MEMO/11/641	1154

b: Brussels Raids Publishers Suspected of e-Book Price-Fixing	1155
c: Dutch Authorities Raid Three Carriers in Price-Fixing Investigation Vodafone, T-Mobile and KPN Are Suspected of Violating the Dutch Competition Act	1155
By Mikael Ricknäs December 6, 2011 06:58 AM ET	1155
2: Investigation and Opening of Proceedings	1155
a: Antitrust: Commission Opens Formal Proceedings to Investigate Sales of e-Books	1155
b: Antitrust: Commission Opens Investigation in e-Payment Market	1157
c: Antitrust: Commission Opens Proceedings against Companies in French Water Sector	1158
d: Antitrust: Commission Opens Proceedings against Samsung	1159
3: Statement of Objectives	1160
a: Antitrust: Commission Sends Telefónica and Portugal Telecom Statement of Objections Regarding Non-Compete Agreement	1160
4: Report of the Hearing Officer	1161
Final Report of the Hearing Officer in Case COMP/M.3440 — EDP/ENI/GDP(2005/C 288/02)	1161
Opinion of the Advisory Committee on Concentrations Given at Its 130th Meeting on 26 November 2004 Concerning a Preliminary Draft Decision Relating to Case COMP/M.3440 — EDP/ENI/GDP (2005/C 288/03)	1161
B: Decisions of the Commission	1162
1: The Commission and Coca-Cola	1162
Notice Published Pursuant to Article 27(4) of Council Regulation (EC) No 1/2003 in Case COMP/A. 39.116/82-Coca-Cola (2004/C 289/08), OJ C 289/10, 26.11.2004	1162
Final Report of the Hearing Officer in Case COMP/39, 116-Coca-Cola (2005/C 239/09) OJ C 239/19, 29.9.2005	1162
Commission Decision of 22 June 2005 Relating to a Proceeding Pursuant to Article 82 of the EC Treaty and Article 54 of the EEA Agreement, (Case COMP/A. 29.116/B2-Coca-Cola) OJ L 253/21, 29.9.2005	1163
2: Antitrust Commission Accepts Microsoft Commitments to Give Users Browser Choice	1163
3: Non-Opposition to a Notified Concentration Case COMP/M. 6281-Microsoft/Skype, 2011/C341/02; OJ C 341, 22.11.2011	1165
4: Prior Notification of a Concentration Case COMP/M.6474-GE/Microsoft/JV OJ C015, 18/01/2012 p. 0010–0010	1167
Reading Beyond . . . Suggested Readings	1168
Chapter Twelve · Aid Granted by States	1169
Section 1: State Aid — Concept	1169
Definition of State Aid	1170

C. Quigley and A. Collins, pp. 3–6 in <i>EC State Aid Law and Policy</i> (2003) Hart publishing, Oxford-Portland Oregon	1170
A: Constitutive Element #1: State Resources Transfer	1171
PreussenElektra AG v. Schleswag AG, Case C-379/98, [2001] ECR I-2099	1172
French Republic v. Commission of the European Communities (“Stardust Marine”), Case C-482/99, [2002] ECR I-4397	1173
B: Constitutive Element #2: An Economic Advantage	1175
Westdeutsche Landesbank Girozentrale and Land Nordrhein- Westfalen v. Commission of the European Communities, Case T-228/99 and T-233/99, [2003] ECR II-435	1175
Question	1178
Note	1178
C: Constitutive Element #3: The Selective Character of the Measure	1178
Italian Republic v. European Commission, Case C-6/97, [1999] ECR I-2981	1179
Portuguese Republic v. Commission of the European Communities	1180
Case C-88/03, [2006] ECR 8-7145, Bouygues SA, Bouygues Télécom SA v. Commission of the European Communities	1180
Case C-431-07P, [2009] ECR I-2665, D: Constitutive Element #4: Effect on Competition and Trade between Member States	1181
Philip Morris Holland BV v. Commission of European Communities	1182
Case 730/79, [1980] ECR 2671	1182
Italian Republic v. Commission of the European Communities	1183
Case T-211/05, [2009] ECR II-2777, Questions	1184
Section 2: Compatibility of State Aid	1184
A: Article 107, Paragraph 2	1184
Decision of the Commission of the European Communities, State aid n° NN 90/2001 — United Kingdom	1185
C (2001) 3199	1185
Compatibility of the Aid in the Light of Article 87(2) (b)	1186
B: Article 107, Paragraph 3	1188
C: Article 109	1189
Categories of Aid Compatible with the Common Market	1190
Section 3: State Aid Procedure	1191
A: Procedure Concerning New Aid	1191
State Aid — Germany State Aid N 609/2003 — Aid in Favor of Kronoply GmbH (Multisectoral Framework) Invitation to Submit Comments Pursuant to Article 88(2) of the EC Treaty	1192
(O.J. 2004 C 258/12)	1192

Commission Decision of 14 December 2010 Concerning State aid C 39/96 (ex NN 127/92) Implemented by France in Favor of Coopérative d'exportation du livre français (CELF) (Notified under document C(2010) 8938)(Only the French text is authentic)(Text with EEA relevance)(2011/179/EU)11	1192
Questions	1195
B: Procedural Rules Concerning Existing Aids	1195
Decision of the European Commission on the Aid Scheme Implemented by Belgium for Coordination Centers Established in Belgium	1195
O.J. 2003 L 282/25	1195
Section 4: State Aid and Service of General Economic Interest:	
A Sensitive Issue!	1197
A: Notion of State Aid in TFEU Article 107(1) (ex-Article 87(1) EC)	1197
European Commission v. Deutsche Post AG, Case C-399/08P, [2010] ECR I-7831	1197
Kingdom of the Netherlands, ING Groep NV v. European Commission, Case T-29/10 and T-33/10, [2012] ECR II-n.y.p. (Appeal: C-224/12)	1197
B: State Aid: Two Different Approaches to TFEU Article 107(1) and (2)	1199
1: Compensation Approach: State Aid	1199
Ferring SA and Agence centrale des organismes de sécurité sociale (ACOSS), Case C-53/00, [2001] ECR I-9067	1199
2: Mitigation Approach: State Aid	1201
Altmark Trans GmbH v. Nahverkehrsgesellschaft Altmark GmbH, Case C-280/00, [2003] ECR I-7747	1201
Decision of the European Commission on the Measures Implemented by Italy for RAI SpA	1205
O.J. 2004 L 119/1	1205
Commission Decision of 28 November 2005 on the Application of Article 86(2) of the EC Treaty to State Aid in the Form of Public Service Compensation Granted to Certain Undertakings Entrusted with the Operation of Services of General Economic Interest	1207
Decision 2005/842/EC, O.J. 2005 L 312/67	1207
Community Framework for State Aid in the Form of Public Service Compensation	1207
(2005/C 297/04)	1207
State Aid: Commission Adopts New Rules on Services of General Economic Interest (SGEI)	1207
Reading Beyond . . . Suggested Readings	1210
Index	1211

Table of Cases

European Court of Justice

- Aalborg Portland A/S, Irish Cement Ltd, Ciments Français SA, Italcementi — Fabbriche Riunite Cemento SpA, Buzzi Unicem SpA and Cementir — Cementerie del Tirreno SpA v. Commission of the European Communities, Joined cases C-204/00 P, C-205/00 P, C-211/00 P, C-213/00 P, C-217/00 P, C-219/00 P [2004] ECR I-123...959
- ACF Chemiefarma NV v. Commission of the European Communities, (The Quinine case or the gentlemen agreement case), Case 41/69, [1970] 661...956
- Administration des Douanes et Droits Indirects v. Léopold Legros and others, Case C-163/90, [1992] ECR I – 4625...588
- Ahlström Osakeyhtiö and Others v. Commission, Joined Cases C-89/85, C-104/85, C-114/85, C-116/85, C-117/85 and C-125/85 to C-129/85, [1988] ECR 5193...951
- “Airline Emissions” Air Transport Association of America v. Secretary of State for Energy and Climate change, European Court of Justice (Grand Chamber), Case C-366/10, 21 December 2011...546
- Aktien-Zuckerfabrik Schöppenstedt v. Council of the European Communities, Case C-5/71, [1971] ECR 975...505
- AKZO Chemie BV v. Commission of the European Communities, Case C-62/86, [1991] ECR I-3359...1036
- Akzo Nobel Chemicals Ltd and Akros Chemicals Ltd v. European Commission, Case C-550/07 P, [2010] ECR I – 8301...818
- Alfons Lütticke GmbH and Others v. Commission of the European Economic Community, Case C-48/65, [1966] ECR 19...452
- Altmark Trans GmbH v. Nahverkehrsgesellschaft Altmark GmbH, Case C-280/00, [2003] ECR I-7747...1201
- Amministrazione delle Finanze dello Stato v. Simmenthal S.p.A., Case C-106/77, [1978] ECR 629...266
- Anita Groener v. Minister for Education and the City of Dublin, Case C-379/87, [1989] ECR 3967...712
- Arben Kaba v. Secretary of State for the Home Department, Case C-356/98, [2000] ECR I-2623...718
- Arkema SA v. European Commission, Case C-520/09 P, [2011] ECR I – n.y.p. ...940
- Asociación Española de Empresas de la Carne (Asocarne) v. Council of the European Union, Case C-10/95 P, [1995] ECR I-4149...395
- Association Belge des Consommateurs Test-Achats v. Conseil des ministres, Case C-236/09, 1 March 2011...228, 674
- Asteris AE and Others and Hellenic Republic v. Commission of the European Communities, Joined Cases C-97/86, C-193/86, C-99/86 and C-215/86, [1998] ECR 2181...435

- Bernard Connolly v. Commission of the European Communities, Case C-274/99 P, [2001] ECR I-1611...24
- Bernhard Pfeiffer v. Deutsches Rotes Kreuz, Kreisverband Waldshut eV, Case C-397/01, [2004] ECR I-8835...176
- Biochem Zusatzstoffe Handels- und Produktions GmbH v. Oberfinanzdirektion Nürnberg, Case C-259/00, [2002] ECR I-2461...574
- BMW Belgium and Others v. Commission of the European Communities, Joined Cases C-32/78, C-36/78 to C-82/78, [1979] ECR 2435...950
- Bosphorus Hava Yolları Turizm ve Ticaret AS v. Minister for Transport, Energy and Communications and others, Case C-84/95, [1996] ECR I-03953...213
- Bouygues SA, Bouygues Télécom SA v. Commission of the European Communities, Case C-431-07P, [2009] ECR I-2665...1180
- Brasserie du Pêcheur SA v Federal Republic of Germany and the Queen v. Secretary of State for Transport ex parte Factortame Ltd and Others, Joined Cases C-46/93 and C-48/93, [1996] ECR I-1029...488
- Brian Francis Collins v. Secretary of State for Work and Pensions, Case C-138/02, [2004] ECR I-2703...2703
- Broekmeulen v. Huisarts Registratie Commissie, Case C-246/80, [1981] ECR 2311...312
- Bureau National Interprofessionnel du Cognac v. Guy Clair, Case C-123/83, [1985] ECR 391...948
- Campus Oil Limited and Others v. Minister for Industry and Energy and Others, Case C-72/83, [1984] ECR 2727...623
- “Canned tuna from Asia”, Kingdom of Spain v Council of the European Union, Case C-342/03, [2005] ECR I-1975...895
- Carbonati Apuani Srl v. Comune di Carrara, Case C-72/03, [2004] ECR I-8027...572
- Carlos Garcia Avello v. État belge, Case C-148/02, [2003] ECR I-11613...59
- Cartesio Oktató és Szolgáltató bt, Case C-210/06, [2008] ECR I-9641...314
- “Cell phones and public safety”, Prefetto Provincia di Cuneo v. Silvano Carbone, Case C-296/00, [2002] ECR I-4657...896
- Centrafarm BV v. American Home Products Corporation, Case 3/78, [1978] ECR 1823 ([6] to [12], [17] to [22])...1078
- Centrafarm BV et Adriaan de Peijper v. Sterling Drug Inc., Case C-15/74, [1974] ECR 1147...1078
- Centre Belge d'Études de Marché-Télémarketing (CBEM) v. SA Compagnie Luxembourgeoise de Télédiffusion (CLT) and Information Publicité Benelux (IPB), Case C-311/84, [1985] ECR 3261...1068
- Centre public d'aide sociale de Courcelles v. Marie-Christine Lebon, Case C-316/85, [1987] ECR 2811...723
- Christian Poucet v. Assurances Générales de France et Caisse Mutuelle Régionale du Languedoc-Roussillon, 17 February 1993, Case C-159/01 and C-160/91, [1993] ECR I-637...941
- Christiane Adam, épouse Urbing v. Administration de l'Enseignement et des Domaines, Case C-267/99, [2001] ECR I-7467...785
- Christine Moegenbesser v. Consiglio dell'Ordine degli avvocati di Genova, Case C-313/01, [2003] ECR I-13467...787
- Claude Gullung v. Conseil de l'ordre des avocats du barreau de Colmar et de Saverne, Case C-292/86, [1988] ECR 111...810
- Codorníu SA v. Council of the European Union, Case C-309/89, [1994] ECR-1853...28, 402
- Commission of the European Communities v. AssiDomän Kraft Products and Others, Case C-310/97 P, [1999] ECR I-5363...424
- Commission of the European Communities v. Council of the European Communities, Case C-22/70, [1971] ECR 263...365

- Commission of the European Communities v. Federal Republic of Germany, Joined Cases C-20/01 and C-28/01, [2003] ECR I-3609...465, 470
- Commission of the European Communities v. Federal Republic of Germany, Case C-74/91, [1992] ECR I – 5437...473
- Commission of the European Communities v. Federal Republic of Germany, Case C-112/05, [2007] ECR I-8995...847
- Commission of the European Communities v. Federal Republic of Germany, Case C-131/93, [1994] ECR I-3303...635
- Commission of the European Communities v. Federal Republic of Germany, Case 178/84, [1987] ECR 1227...628
- Commission of the European Communities v. Federal Republic of Germany, Case C-217/88, [1990] ECR I-2879...469
- Commission of the European Communities v. Federal Republic of Germany, Case 317/92, [1994] ECR I-2039...463
- Commission of the European Communities v. French Republic, supported by Czech Republic, Case C-121/07, [2008] ECR I – 9159...477
- Commission of the European Communities v. French Republic, Case 168/78, [1980] ECR 347...593
- Commission of the European Communities v. French Republic, Case C-232/78, [1979] ECR 2729...468
- Commission of the European Communities v. French Republic, Case C-265/95, [1997] ECR I-6990...599
- Commission of the European Communities v. Hellenic Republic, Case C-70/86, [1987] ECR 3545...467
- Commission of the European Communities v. Hellenic Republic, Case C-226/87, [1988] ECR 3611...184
- Commission of the European Communities v. Hellenic Republic, Case C-123/94, [1995] ECR I – 1457...472
- Commission of the European Communities v. Hellenic Republic, Case C-489/06, [2009] ECR I-1797...463
- Commission of the European Communities v. Hellenic Republic, Case C-109/08, [2009] ECR I – 4657...480
- Commission of the European Communities v. Ireland, Case C-249/81, [1982] ECR 4005...597
- Commission of the European Economic Community v. Government of the Italian Republic, Case C-7/61, [1961] ECR 317...464
- Commission of the European Communities v. the Italian Republic, Case 7/68, [1968] ECR 423...637
- Commission of the European Communities v. Italian Republic, Case 24/68, [1969] ECR 193...589
- Commission of the European Communities v. Italian Republic, Case C-39/72 [1973] ECR 101...33
- Commission of the European Communities v. Italian Republic, Case C-101/84, [1985] ECR 2629...466
- Commission of the European Communities v. Italian Republic, Case C-35/96, [1998] ECR I-3851...944
- Commission of the European Communities v. Italian Republic, Case C-145/99, [2002] ECR I-2235...799
- Commission of the European Communities v. Italian Republic, Case C-129/00, [2003] ECR I-14637...458
- Commission of the European Communities v. Italian Republic, Case C-174/04, [2005] ECR I-4933...845
- Commission of the European Communities v. Jégo-Quérel & Cie SA, Case C-263/02 P, [2004] ECR I-3425...401
- Commission of the European Communities v. Kingdom of Belgium, Case C-149/79, [1980] ECR 3881...727
- Commission of the European Communities v. Kingdom of Belgium, Case C-314/82, [1984] ECR 1543...586
- Commission of the European Communities v. Kingdom of the Netherlands,

- Case C-144/99, [2001] ECR I-3541...472
- Commission of the European Communities v. Kingdom of the Netherlands, Case C-322/00, [2003] ECR I-11267...473
- Commission of the European Communities v. Kingdom of Spain, Case C-114/97, [1998] ECR I-6717...679
- Commission of the European Communities v. Kingdom of Spain, Case C-227/01, [2004] ECR I-8253...453
- Commission of the European Communities v. Kingdom of Sweden, Case C-249/06, [2009] ECR I-1335...913
- Commission of the European Communities v. Michael Cwik, Case C-340/00 P, [2001] ECR-10269...29
- Commission of the European Communities v. Republic of Poland, Case C-165/08, [2009] ECR I-6843...478
- Commission of the European Communities v. Schneider Electric SA, Case C-440/07 P, [2009] ECR I-6413...502
- Commission of the European Communities v. Tetra Laval BV, Case C-12/03 P, [2005] ECR I-987...1132, 1133
- Commission of the European Communities, United Kingdom of Great Britain and Northern Ireland v. Ireland, Case C-459/03, [2006] ECR I-4635...454
- Commission of the European Economic Community v. Grand Duchy of Luxembourg and Kingdom of Belgium, Joined Cases 2/62 and 3/62, [1962] ECR 425...585
- Commission of the European Economic Community v. Grand Duchy of Luxembourg and Kingdom of Belgium, Joined Cases C-90 and C-91/63, [1964] ECR 625...467
- Consorzio Italiano della Componentistica di Ricambio per Autoveicoli and Maxicar v. Régie Nationale des Usines Renault, Case C-53/87, [1988] ECR 6039 ([7], [10] to [18])...1079
- Costa v. ENEL, Case C-6/64, [1964] ECR-585...71, 164, 241, 245, 264
- Council of the European Union v. European Parliament, Case C-41/95, [1995] ECR I-4411...422
- “Counterfeit or pirated goods”, The Polo/Lauren Company LP v. PT. Dwidua Langgeng Pratama International Freight Forwarders, Case C-383/98, [2000], ECR I-2519...897
- Courage Ltd v. Bernard Crehan and Bernard Crehan v. Courage Ltd and Others, Case C-453/99, [2001] ECR I-6297...970, 987
- Criminal Proceedings against Aimé Richardt and Les Accessoires Scientifiques SNC, Case C-367/89, [1991] ECR I-4621...625
- Criminal Proceedings against Bernard Keck and Daniel Mithouard, Joined Cases C-267/91 and C-268/91, [1993] ECR I-6097...614
- Criminal Proceedings against Ditlev Bluhme, Case C-67/97, [1998] ECR I-8033...633
- Criminal Proceedings against Horst Otto Bickel and Ulrich Franz, Case C-274/96, [1998] ECR I-7637...667
- Criminal Proceedings against Jean Claude Levy, Case C-158/91, [1993] ECR I-4287...537
- Criminal Proceedings against Jean-Pierre Guimont, Case C-448/98, [2000] ECR I-10663...605
- Criminal Proceedings against Sandoz BV, Case C-174/82, [1983] ECR 2445...627
- Danielle Roux v. Belgian State, Case C-363/89, [1991] ECR I-273...704
- Deborah Lawrie-Blum v. Land Baden-Württemberg, Case C-66/85, [1986] ECR 2121...695
- Deutsche Grammophon Gesellschaft mbH v. Metro-SB-Großmärkte GmbH & Co. KG, Case C-78/70, [1971] ECR 487...1078
- Dieter Kraus v. Land Baden-Württemberg, Case C-19/92, [1993] ECR I-1663...23
- Donat Cornelius Ebert v. Budapesti Ügyvédi Kamara, Case C-359/09, [2011] ECR I – not yet published...802

- Dynamic Medien Vertriebs GmbH v. Avides Media AG, Case C-24/06, [2008] ECR I – 505...621
- Echirolles Distribution SA v. Association du Dauphiné and Others, Case C-9/99, [2000] ECR I-8207...572
- ECO Swiss China Time Ltd. v. Benetton International NV, Case C-126/97, [1999] ECR I-3055...987
- Edyta Joanna Jakubowska v. Alessandro Maneggia, Case C-225/09, [2010] ECR I – 12329...814
- El Corte Inglés SA v. Cristina Blázquez Rivero, Case C-192/94, [1996] ECR I-1281...178
- EMESA Sugar (Free Zone) NV v. Aruba, Case C-17/98, [2000] ECR I-665...129
- EMI Records Limited v. CBS United Kingdom Limited, Case C-51/75, [1976] ECR 811([6], [25] to [27], [35] to [39])...1078
- Empresa Nacional de Urânio S.A. v. Commission of the European Communities, Case C-107/91, [1993] ECR I-599...434
- Établissements Consten S.à.R.L. and Grundig-Verkaufs-GmbH v. Commission of the European Economic Community, Joined Cases C-56 and C-58/64, [1966] ECR 299...976
- Établissements Delhaize frères et Compagnie Le Lion SA v. Promalvin SA and AGE Bodegas Unidas SA, C-47/90, [1992] ECR I-3669...609
- Eugen Schmidberger, Internationale Transporte und Planzüge v. Republik Österreich, Case C-112/00, [2003] ECR I-5659...646
- European Commission v. Deutsche Post AG, Case C-399/08P, [2010] ECR I-7831...1197
- European Commission v. French Republic, (Supported by: Kingdom of Spain, Republic of Finland, United Kingdom of Great Britain and Northern Ireland), Case C-512/08, [2010] ECR I – 8833...470
- European Commission v. Italian Republic, Case C-565/08, [2011] ECR I-n.y.p. ...816
- European Commission v. Kingdom of Belgium (Case C-47/08); European Commission v. French Republic (Case C-50/08); European Commission v. Grand Duchy of Luxembourg (Case C-51/08); European Commission v. Republic of Austria (Case C-53/08); European Commission v. Federal Republic of Germany (Case C-54/08); European Commission v. Hellenic Republic (Case C-61/08), [2011] ECR I- n.y.p. ...804
- “Unilateral Action by a Member State” European Commission v. Kingdom of Sweden, European Court of Justice, Case C-246/07, April 20, 2010...524
- European Parliament v. Council of the European Communities and Commission of the European Communities, Joined Cases C-181/91 and C-248/91, [1993] ECR I-3865...371
- European Parliament v. Council of the European Communities, Case C-13/83, [1985] ECR 1513...428
- European Parliament v. Council of the European Communities, Case C-295/90, [1992] ECR I-4193...420
- European Parliament v. Council of the European Communities (Comitology), Case C-302/87, [1988] ECR 5615...378
- European Parliament v. Council of the European Union and European Parliament v. Commission of the European Communities, Joined Cases C-317/04 and C-318/04, [2006] ECR I-4721...380
- Europemballage Corporation and Continental Can Company Inc. v. Commission of the European Communities, Case C-6/72, [1973] ECR 215...1086
- Eurotunnel SA and Others v. SeaFrance, formerly Société Nouvelle d’Armement Transmanche SA (SNAT), Case C-408/95, [1997] ECR I-6315...396

- Faccini Dori, Case C-91/92, [1994] ECR I 3325...255
- Federico Cipolla and Others v. Rosaria Fazari, née Portolese, and Roberto Meloni, Joined Cases C-94/04 and C-202/04, [2006] ECR I – 11421...827
- Federal Republic of Germany v. European Parliament and Council of the European Union, Case C-233/94, [1997] ECR I-2405...44
- Federal Republic of Germany v. European Parliament and Council of the European Union, Case C-376/98, [2000] ECR I-2247...37
- Federal Republic of Germany v. European Parliament and Council of the European Union, Case C-380/03, [2006] ECR I-11573...38
- Ferring SA and Agence centrale des organismes de sécurité sociale (ACOSS), Case C-53/00, [2001] ECR I-9067...1199
- Firma C. Schwarze v. Einfuhr-und Vorratsstelle für Getreide und Futtermittel, Case C-16/65, [1965] ECR 877...356
- Flughafen Köln/Bonn GmbH v. Hauptzollamt Köln, Case C-226/07, [2008] ECR I-5999...259
- Football Association Premier League Ltd, NetMed Hellas SA, Multichoice Hellas SA v. QC Leisure, David Richardson... Derek Owen (C403/08) and Karen Murphy v. Media Protection Services Ltd (C-429/08), Joined Cases C-403/08 and C-429/08, [2011] ECR I – n.y.p. ...972
- Foto-Frost v. Hauptzollamt Lübeck-Ost, Case C-314/85, [1987] ECR 4199...330
- France v. Commission: Joined Cases C-68/94 and C-30/95 (1998) ECR I-1275...1123
- France v. Commission, Stardust Marine, Case C-482/99, [2002] ECR I-4397...1173
- France Télécom SA v. Commission of the European Communities, Case C-202-07 P [2009], ECR I-2369...1038
- Francesco Reina and Letizia Reina v. Landeskreditbank Baden-Württemberg, Case C-65/81, [1982] ECR 33...714
- Françoise-Eléonor Hanssens-Ensch v. European Community, Case C-377/09, [2010] ECR I-7751...499
- Françoise Gravier v. City of Liège, Case 293/83, [1985] ECR 593...671
- Francovich and Others, Joined Cases C-6/90 and C-9/90, [1991] ECR I-5357...486
- Franz Grad v. Finanzamt Traunstein, Case C-9/70, [1970] ECR 825...183, 249
- French Republic and SCPA and EMC v. Commission of the ECs, Joined Cases C-68/94 and C-30/95, [1998] ECR I-1375...1123
- French Republic v. Commission of the European Communities, Case C-327/91, [1994] ECR I-3641...405
- French Republic v. Commission of the European Communities ("Stardust Marine"), Case C-482/99, [2002] ECR I-4397...1173
- Front National v. European Parliament, Case C-486/01, [2004] ECR I-6289...376
- Gabrielle Defrenne v. Société anonyme belge de navigation aérienne Sabena, Case C-43/75, [1976] ECR-455...352
- Garcia Avello, Case C-148/02, [2003] ECR I 11613...59
- Gaston Schul Douane Expéditeur BV v. Inspecteur der Invoerrechten en Accijnzen, Roosendaal, Case C-15/81, [1982] ECR 1409...571
- Gerhard Köbler v. Republik Österreich, Case C-224/01, [2003] ECR I-10239...484
- Giovanni Maria Sotgiu v. Duetsche Bundespost, Case C-152/73, [1974] ECR 153...673
- Gottfried Henrich, Case C-345/06, [2009] ECR I-1659...172
- Granaria BV v. Hoofdproduktschap voor Akkerbouwprodukten, Case C-101/78, [1979], ECR 623...507
- Grazinana Luisi and Giuseppe Carbone v. Ministero del Tesoro, Joined Cases 286/82 and 26/83, [1984] ECR 377...834

- Hans-Otto Wagner GmbH Agrarhandel KG v. Commission of the European Communities, Case C-12/79, [1979] ECR 3657...507
- Hassan Fahmi and M. Esmoris Cerdeiro-Pinedo Amado v. Bestuur van de Sociale Verzekeringsbank, Case C-33/99, [2001] ECR I-2415...683
- Hilde Schönheit and Stadt Frankfurt am Main (C-4/02), and between Silvia Becker and Land Hessen (C-5/02), Joined Cases C-4/02 and C-5/02, [2003] ECR-12575...28
- Hydrotherm Gerätebeau GMBH v. Compact and Office Sant' Andrea and Dottore Ingeniere Mario Androli, Case C-170/83, [1984] ECR 2999...939
- Ian William Cowan v. Trésor public, Case C-186/87, [1989] ECR 195...758
- Ignacio Pedro Santesteban Goicoechea, Case C-296/08 PPU, [2008] ECR I-6307...325
- Imperial Chemical Industries Ltd. v. Commission of the European Communities, Case C-48/69, [1972] ECR 619...54
- IMS Health GmbH & Co. OHG v. NDC Health GmbH & Co. KG, Case C-418/01, [2004] ECR I-5039 ([30], [34] to [38], [49], [52])...1079
- International Business Machines Corporation v. Commission of the European Communities, Case C-60/81, [1981] ECR 2639...370
- Internationale Handelsgesellschaft mbH v. Einfuhr-und Vorratsstelle für Getreide und Futtermittel, Case C-11/70, [1970] ECR-1125...265
- Irene Vlassopoulou v. Ministerium für Justiz, Bundes-und Europaangelegenheiten Baden-Württemberg, Case C-340/89, [1991] ECR I-2357...797
- Istituto Chemioterapico Italiano S.p.A. and Commercial Solvents Corporation v. Commission of the European Communities, Joined Cases C-6 and C-7/73, [1974] ECR 223...1070
- Italian Republic v. European Commission, Case C-6/97, [1999] ECR I-2981...1179
- J.C.J. Wouters, J.W. Savelberg and Price Waterhouse Belastingadviseurs BV v. Algemene Raad van de Nederlandse Orde van Advocaten, Case C-309/99, [2002] ECR I-1577...821
- J. Nold, Kohlen-und Baustoffgroßhandlung v. Commission of the European Communities, Case C-4/73, [1974] ECR-491...199
- Jacqueline Förster v. Hoofddirectie van de Informatie Beheer Groep, Case C-158/07, [2008] ECR I-8507...67
- Janko Rottmann v. Freistaat Bayern, Case C-135/08, [2010] ECR I-1449...68
- Jean Noël Royer, Case C-48/75, [1976] ECR 497...661
- Jeroen van Schijndel and Johannes Nicolaas Cornelis van Veen v. Stichting Pensioenfonds voor Fysiotherapeuten, Joined Cases C-430/93 and C-431/93, [1995] ECR I – 4705...269
- Johannes Henricus Maria van Binsbergen v. Bestuur van de Bedrijfsvereniging voor de Metaalnijverheid, Case C-33/74, [1974] ECR 1299...744
- John Reyners v. Belgian State, Case 2/74, [1974] ECR 631...763, 788
- Kakavetsos-Fragkopoulos AE Epexergasias kai Emporias Stafidas v. Nomarchiaki Aftodioikisi Korinthias, Case C-161/09, [2011] ECR I – 915...602
- Karl Könecke Fleischwarenfabrik GmbH & Co. KG v. Commission of the European Communities, Case C-76/79, [1980] ECR 665...436
- Keck and Mithouard, Joined Cases C-267/91 and C-268/91, [1993] ECR I-6097...614
- Ker-Optika bt v. ÁNTSZ Dél-dunántúli Regionális Intézet, Case C-108/09, [2010] ECR I – 12213...631
- Kingdom of Spain v. Commission of the European Communities, Case C-135/93, [1995] ECR I-1651...439
- Kingdom of Spain v. Council of the European Union, Case C-310/04, [2006] ECR I-7285...418
- Kingdom of Spain v. United Kingdom of Great Britain and Northern Ireland,

- Case C-145/04, [2006] ECR I-7917...455
- Konsumentombudsmannen (KO) v. Gourmet International Products AB (GIP), C-405/98, [2000] ECR I-1795...615, 778
- Kraus, Case C-19/92, [1993] ECR I-1663...23
- Krzysztof Filipiak v. Dyrektor Izby Skarbowej w Poznaniu, Case C-314/08, [2009] ECR I-11049...267
- Laboratoires pharmaceutiques Bergaderm SA, in liquidation, and Jean-Jacques Goupil v. Commission of the European Communities, Case C-352/98 P, [2000] ECR I-5291...498
- Ladbrokes Betting & Gaming Ltd, Ladbrokes International Ltd v. Stichting de Nationale Sporttotalisator, Case C-258/08, [2010], ECR I-4757...130
- Legros and Others, Case C-163/90, [1992] ECR I-4625...588
- Lodewijk Gysbrechts, Santurel Inter BVBA, Case C-205/07, [2008] ECR I – 9947...607
- Lucy Stewart v. Secretary of State for Work and Pensions, Case C-503/09, [2011] ECR I-not yet published...705
- Manfred Trummer and Peter Mayer, Case C-222/97, [1999] ECR I-1661...837
- Maria Martinez Sala v. Freistaat Bayern, Case C-85/96, [1998] ECR I-2691...657
- Marleasing Sa v. La Comercial Internacional de Alimentacion SA, Case C-106/89, [1990] ECR I-4135...177
- Masdar (UK) Ltd. v. Commission of the European Communities, Case C-47/07 P, [2008] ECR I-9761...506
- Metro SB-Großmärkte GmbH & Co. KG v. Commission of the European Communities, Case C-26/76, [1977] ECR 1875...931
- M.H. Marshall v. Southampton and South-West Hampshire Area Health Authority (Teaching), Case C-152/84, [1986] ECR 723...174
- Michel Humblot v. Directeur des Services Fiscaux, Case C-112/84, [1985] ECR 1367...591
- Milchwerke Heinz Wöhrmann & Sohn KG and Alfons Lütticke GmbH v. Commission of the European Community, Joined Cases C-31 and C-33/62, [1962] ECR 744...437
- Minister voor Vreemdelingenzaken en Integratie v. R.N.G. Eind, Case C-291/05, [2007] ECR I-10719...65
- Ministère public v. Jean-Louis Tournier, Case C-395/87, [1989] ECR 2521, ([7], [16] to [20], [26], [38] to [46])...1079
- Mrs. M.K.H. Hoekstra (née Unger) v. Bestuur der Bedrijfsvereniging voor Detailhandel en Ambachten, Case C-75/63, [1964] ECR 177...694
- Nordsee Deutsche Hochseefischerei GmbH v. Reederei Mond Hochseefischerei Nordstern AG & Co. KG, Case C-102/81, [1982] ECR 1095...312
- NV Algemene Transport-en Expeditie Onderneming van Gend & Loos v. Netherlands Inland Revenue Administration, Case C-26/62, [1963] ECR-1...71, 163, 241, 247, 583
- NV Nederlandsche Banden Industrie Michelin v. Commission of the European Communities, Case C-322/81, [1983] ECR 3461...1007
- Olympique Lyonnais SASP v. Olivier Bernard, Newcastle United FC, Case C-325/08, [2010] ECR I-2177...700
- Ordre des Avocats au Barreau de Paris v. Onno Klopp, Case 107/83, [1984] ECR 2971...792
- Oscar Bronner GmbH & Co. KG v. Mediaprint Zeitungs-und Zeitschriftenverlag GmbH & Co. KG, and Others, Case C-7/97, [1998] ECR I-7791...1071
- Osman Ocalan (on behalf of the Kurdistan Workers' Party PKK), Serif Vanly (on behalf of the Kurdistan National Congress KNK) v. Council of the European Union, Case C-229/05 P, [2007] ECR I-439...388
- Parke, Davis and Co. v. Probel, Reese, Beintema-Interpharm and Centrafarm, Case 24/67, [1968] ECR 55 (pages 71 to 73)...1078

- Parti écologiste "Les Verts" v. European Parliament, Case C-294/83, [1986] ECR-1339...30, 190, 373
- Pascal Van Eycke v. ASPA N.V., Case C-267/86, [1988] ECR 4769...835
- Pasquale Foglia v. Mariella Novello, Case C-104/79, [1980] ECR 745...317
- Pasquale Foglia v. Mariella Novello, Case C-244/80, [1981] ECR 3045...318
- Peter Paul, Cornelia Sonnen-Lütte, Christel Mörkens v. Bundesrepublik Deutschland, Case C-222/02, [2004] ECR I-9425...855
- Peterbroeck, Van Campenhout & Cie SCS v. Belgian State, Case C-312/93, [1995] ECR 4599...320
- Petri Manninen, Case C-319/02, [2004] ECR I-7477...841
- Pfeiffer and Others v. Deutsches Rotes Kreuz, Kreisverband Waldshut eV, Joined Cases C-397/01 to C-403/01, [2004] ECR I-8835...258
- Philip Morris Holland BV v. Commission of European Communities, Case C-730/79, [1980] ECR 2671...1182
- Pilar Allué and Carmel Mary Coonan v. Università degli studi di Venezia, Case C-33/88, [1989] ECR 1591...710
- Plaumann & Co. v. Commission of the European Economic Community, Case C-25/62, [1963] ECR 95...386, 504
- Portuguese Republic v. Commission of the European Communities, Case C-88/03, [2006] ECR 8-7145...1180
- PreussenElektra, Case C-379/98, [2001] ECR I 2099...1172
- Procureur du Roi v. Benoît and Gustave Dassonville, Case 8/74, [1974] ECR 837...611
- R. & V. Haegeman v. Commission of the European Communities, Case C-96/71, [1972] ECR 1005...508
- Racke GmbH & Co. v. Hauptzollamt Maiz, Case C-162/96, [1998] ECR I-3655...165, 540
- Radio Telefis Eireann (RTE) and Independent Television Publications Ltd (ITP) v. Commission of the European Communities, (The 'Magill judgment'), Joined Cases C-241/91 P and C-242/91P, [1995] ECR I-743...1048
- Regina v. Maurice Donald Henn and John Frederick Ernest Darby, Case C-34/79, [1979] ECR 3795...619
- Reinhard Gebhard v. Consiglio dell'Ordine degli Avvocati e Procuratori di Milano, Case C-55/94, [1995] ECR I-4165...812
- Rewe-Zentralfinanz and Rewe-Zentral AG v. Landwirtschaftskammer für das Saarland, Case C-33/76, [1976] ECR 1989...269
- Rewe-Zentral AG v. Bundesmonopolverwaltung für Branntwein, Case 120/78, [1979] ECR 649...612
- Rezguia Adoui v. Belgian State and City of Liège; Dominique Cornuaille v. Belgian State, Joined Cases C-115 and C-116/81, [1982] ECR 1665...726
- Rheinmühlen-Düsseldorf v. Einfuhr-und Vorratsstelle für Getreide und Futtermittel, Case C-166/73, [1974] ECR 33...334
- Roman Angonese v. Cassa di Risparmio di Bolzano SpA, Case C-281/98, [2000] ECR I-4139...669
- Roquette Frères SA v. Hauptzollamt Geldern, Case C-228/92, [1994] ECR I-1445...357
- Rudy Grzelczyk v. Centre public d'aide sociale d'Ottignies-Louvain-la-Neuve, Case C-184/99, [2001] ECR I-6193...61
- S.A. Krüger v. Directie van de rechtspersoonlijkheid bezittende Dienst Wegverkeer, Case C-253/01, [2004] ECR I-1191...343
- SA Roquette Frères v. Council of the European Communities, Case C-138/79, [1980] ECR 3333...187
- SA Roquette Frères v. and Directeur general de la concurrence, de la consommation et de la repression des frauds v. Commission of the European Communities, Case C-94/00, [2002] ECR I-9011...199
- Sabine von Colson and Elisabeth Kaman v. Land Nordrhein-Westfalen, Case C-14/83, [1984] ECR 1891...253

- Salvatore Grimaldi v. Fonds des maladies professionnelles, Case C-322/88, [1989] ECR 4407...
- Secretary of State for the Home Department v. Hacene Akrich, Case C-109/01, [2003] ECR I-9607...63
- Seda Kücüydevecu v. Swedex GmbH & Co. KG., Case C-555/07, [2010] ECR I-365...181, 201
- Simmenthal S.p.A. v. Commission of the European Communities, Case C-92/78, [1977] ECR 777...442
- Skatteverket v. Gourmet Classic Ltd., Case C-458/06, [2008] ECR I-4207...309
- Smanor SA and Other v. Commission, Case C-317/97 P, [1998] ECR I-4269...197
- Société Bautiaa v. Directeur des Services Fiscaux des Landes and Société Française Maritime SA v. Directeur des Services Fiscaux du Finistère, Joined Cases C-197/94 and C-252/94, [1996] ECR I-505...353
- Société Technique Minière (L.T.M.) v. Maschinenbau Ulm GmbH (M.B.U.), Case C-56/65, [1966] ECR 235...936
- Society for the Protection of Unborn Children Ireland Ltd v. Stephen Grogan and others, Case C-159/90, [1991] ECR I-4685...738
- S.r.l. CILFIT and Lanificio di Gavardo SpA v. Ministry of Health, Case C-283/81, [1982] ECR 3415...343
- Staatssecretaris van Financiën v. B.G.M. Verkooijen, Case C-35/98, [2000] ECR I-4071...839
- Star Fruit Company SA v. Commission of the European Communities, Case C-247/87, [1989] ECR 291...430, 452
- State of the Netherlands v. Ann Florence Reed, Case C-59/85, [1986] ECR 1283...721
- Stephen Austin Saldanha and MTS Securities Corporation v. Hiross Holding AG, Case C-122/96, [1997] ECR I-5325...666
- Stergios Delimitis v. Henninger Bräu AG, Case C-234/89, [1991] ECR I-935...968
- Sylvie Lair v. Universität Hannover, Case C-39/86, [1988] ECR 3161...715
- Technique Minière v. Maschinenbau Ulm, Case C-56/65, [1966] ECR 235...936
- Teresa Fernández de Bobadilla v. Museo Nacional del Prado and Others, Case C-234/97, [1999] ECR I-4773...784
- Tetra Pak International SA v. Commission, Judgment of the Court (Fifth Chamber) of 14 November 1996, Case C-333/94 P, [1996] ECR I-5951...1018
- The Queen and Secretary of State for Health v. British American Tobacco (Investments) Ltd. and Imperial Tobacco Ltd., Case C-491/01, [2002] ECR I-11453...45
- The Queen v. Ministry of Agriculture, Fisheries and Food, Commissioners of Customs & Excise, ex parte National Farmers' Union and Others, Case C-157/96, [1998] ECR I-221...50
- The Sporting Exchange Ltd, trading as Betfair v. Minister van Justitie, Case C-203/08, [2010], ECR I-4695...130
- Unibet, Case C-432/05, [2007] ECR I-2271...270
- Unión de Pequeños Agricultores v. Council, Case C-50/00 P, [2002] ECR I-6677...397
- Union Royale Belge des Sociétés de Football Association ASBL v. Jean-Marc Bosman, et al, Case C-415/93, [1995] ECR I-4921...697, 742
- United Brands Company and United Brands Continental BV v. Commission of the European Communities: Chiquita Bananas, Case C-27/76, [1978] ECR-207...1015, 1033, 1066
- United Kingdom of Great Britain and Northern Ireland v. Council of the European Union, Case C-84/94, [1996] ECR I-5755...45, 49, 416
- Ursula Becker v. Finanzamt Münster-Innenstadt, Case C-8/81, [1982] ECR 53...252
- Van Duyn v. Home Office, Case C-41/74, [1974] ECR 1337...247, 251, 676
- Van Schijndel and Van Veen, Joined Cases C-430/93 and C-431/93, [1995] ECR I-4705...269

- Vincent Blaizot v. University of Liège and Others, Case C-24/86, [1988] ECR 379...672
- Walrave v. Union Cycliste Internationale, Case C-36/64, [1974] ECR 1405...742
- Weinand Meilicke v. ADV/ORGA AG, Case C-83/91, [1992] ECR I-4871...319
- Werner Mangold v. Rüdiger Helm, Case C-144/04, [2005] ECR I-9981...179
- Willy Kempter KG v. Hauptzollamt Hamburg-Jonas, Case C-2/06, [2008] ECR I-411...350
- Wilson v. Ordre des avocats du barreau de Luxembourg, Case C-506/04, [2006] ECR I-8613...313
- Wünsche Handelsgesellschaft GmbH & Co. v. Federal Republic of Germany, Case C-69/85, [1986] ECR 947...350
- Yassin Abdullah Kadi v. Al Barakaat International Foundation, Joined Cases C-402/05 P and C-415/05 P, [2008] ECR I-6351...166
- Zuckerfabrik Süderdithmarschen AG v. Hauptzollamt Itzehoe and Zuckerfabrik Soest GmgH v. Hautptzollamt Paderborn, Joined Cases C-143/88 and C-92/89, [1991] ECR I-415...332

General Court/Court of First Instance

- Aer Lingus Group plc v. European Commission, Ryanair Holdings plc, Case T-411/07, [2010] ECR II-3691...1119
- Airtours plc v. Commission, Case T-342/99, [2002], ECR II-2585...1009, 1129
- Alliance One International, Inc. v. European Commission, 9 September 2011, Case T-25/06, [2011] ECR II – n.y.p. ...940
- Asociación Española de Empresas de la Carne (Asocarne) v. Council of the European Union, Case T-99/94, [1994] ECR II-871...392
- Confédération européenne des associations d'horlogers-réparateurs (CEAHR) v. European Commission, Judgment of the GENERAL COURT (4th Chamber) 15 December 2010, Case T-427/08, [2010] ECR II – 5865, Annulment of Commission Decision C (2008) 3600 of 10 July 2008 rejecting the complaint lodged by the applicant in Case COMP/E-1/39097...1024
- Frank Lamberts v. European Ombudsman, Case T-209/00, [2002] ECR II-2203...504
- Gencor Ltd. V. Commission of the ECs, Case T-102/96, [1999] ECR II-753...1125

- Gertevision Telecinco SA v. Commission of the European Communities, Case T-95/96, [1998] ECR II-3407...431
- Glaxosmithkline Services Unlimited v. Commission, (Price of pharmaceuticals and general sales conditions), Case T-168/01, [2006] ECR II-2969...980
- Hilti AG v. Commission of the European Communities, Case T-30/89, [1991] ECR II-1439...1043
- Imperial Chemical Industries plc v. Commission of the European Communities, Case T-36/91, [1995] ECR II-1847...409
- Italian Republic v. Commission of the European Communities, Case T-211/05, [2009] ECR II-2777...1183
- John Carvel and Guardian Newspapers Ltd. v. Council of the European Union, Case T-194/94, [1995] ECR II-2765...411
- J.T. Martinez, Charles de Gaulle [and others] v. European Parliament, Joined Cases T-222/99, T-327/99 and T-329/99, [2001] ECR II-2823...441
- Kingdom of the Netherlands, ING Groep NV v. European Commission, Case T-29/10 and T-33/10, [2012] ECR II-n.y.p. ...1197
- Landtag Schleswig-Holstein v. Commission of the European Communities, Case T-236/06, [2008] ECR II-461...383
- Masdar (UK) Ltd. v. Commission of the European Communities, Case T-333/03, [2006] ECR II-4377...506
- Meca-Medina and Majcen v. EC Commission, Case T-313/02, [2004]...744
- Microsoft Corp. v. Commission, September 17, 2007, Judgment of the General Court (Grand Chamber), Case T-201/04, [2007] ECR II-3601-4034...1021, 1052, 1076
- Omar Mohammed Othman v. Council of the European Union and Commission of the European Communities, Case T-318/01, [2009] ECR II-1627...200
- Republic of Estonia, Republic of Lithuania, Slovak Republic v. Commission of the European Communities and United Kingdom of Great Britain and Northern Ireland, Case T-263/07, [2009] ECR II-3463...406
- Schneider Electric SA v. Commission of the European Communities, Case T-351/03, [2007] ECR II-2237...500
- SIV and Others v. Commission, Joined Cases T-68/89, T-77/89 and T-78/89, [1992] ECR II-1403; the 'Flat Glass' case...1008
- Société Anonyme à Participation Ouvrière Compagnie Nationale Air France v. Commission of the European Communities, Case T-3/93, [1994] ECR II-121...368
- Sogelma – Società generale lavori manutenzioni appalti Srl v. European Agency for Reconstruction (EAR), Case T-411/06, [2008] ECR II-2771...366
- Stichting Greenpeace Council (Greenpeace International) and others v. Commission of the European Communities, Case T-585/93, [1995] ECR II-2205...387
- Westdeutsche Landesbank Girozentrale and Land Nordrhein-Westfalen v. Commission of the European Communities, Case T-228/99 and T-233/99, [2003] ECR II-435...1175

Abbreviations

ACP	African, Caribbean and Pacific countries
AELE	Association Européenne de Libre Echange
Benelux	Belgium, The Netherlands, and Luxembourg
CAP	Common Agricultural Policy
CCT	Common Customs Tariff
CET	Common External Tariff
CFI	Court of First Instance
CFSP	Common Foreign and Security Policy
CMLR	Common Market Law Reports
COREPER	Committee of Permanent Representatives
DG	Directorate General
EAEC	European Atomic Energy Community
EC	European Community
ECB	European Central Bank
EC Bull.	European Communities Bulletin
ECJ	European Court of Justice
ECHR	European Convention on Human Rights and Freedoms
ECOSOC	Economic and Social Committee
ECR	European Court Reports
ECSC	European Coal and Steel Community
ECT	European Community Treaty
ECU	European Currency Unit
EDC	European Defence Community
EEA	European Economic Area
EEC	European Economic Community
EFTA	European Free Trade Association
EIB	European Investment Bank
EMI	European Monetary Institute
EMS	European Monetary System
EMU	Economic and Monetary Union
EP	European Parliament
EPC	European Political Cooperation
ESC	Economic and Social Committee
ESCB	European System of Central Banks
EU	European Union
Euratom	European Atomic Energy Community
GATT	General Agreement on Tariffs and Trade
GSP	General System of Preferences
IGC	Inter-Governmental Conference

JHA	Justice and Home Affairs
MEPs	Members of the European Parliament
NATO	North Atlantic Treaty Organisation
NTA	New Transatlantic Agenda
OECD	Organisation for Economic Cooperation and Development
OEEC	Organisation for European Economic Cooperation
OJ	Official Journal of the European Communities
PCA	Partnership and Cooperation Agreement
SEA	Single European Act
TEU	Treaty on European Union
VAT	Value Added Tax
WEU	Western European Union
WTO	World Trade Organisation

Foreword

J.C. PIRIS

It is for me both an honor and a pleasure to write the Foreword for this Second edition of the Casebook written by Professors Alain Levasseur (lead author and editor), Richard F. Scott, Christine Corcos, from the United States, and Joël Monéger and Arnaud Raynouard, from Europe (France). A thorough revision has been completed in order to take into account the important evolution of the European Union and its law since the time of publication of the First edition in two volumes. Therefore, this is actually a new book. However, all of the qualities of the First edition have been preserved and enhanced.

First, while this volume is essentially an American Casebook in the structure of its chapters, it is also permeated with a distinctive European approach in its overall architecture, going from the general to the particular, and its emphasis on doctrinal writings in conjunction with the jurisprudence of the courts. As it was stressed in the Preface of the First edition, “the end product is a fruitful harmonization of a combination of legal styles and cultures.”

Second, its wide scope will allow teachers and readers to pick and choose among the extensive list of issues and topics presented. All issues of importance are covered, being institutional or substantive in nature in the First Part of the volume. The internal market and the four freedoms (persons, goods, services and capitals) are of course treated in details, as it is also the case for competition law, in Part Two of the casebook.

The European Union law is, more than ever, dynamic, in full evolution and gaining in importance. On 1st December 2009, the Treaty of Lisbon entered into force. It took nine years of gestation from the adoption of the Treaty of Nice in December 2000 and the collapse of the ratification of the Constitutional Treaty in the summer of 2005. The Lisbon Treaty contains a number of innovations, and has even reshuffled the basic EU Treaties. Moreover, since the beginning of the financial crisis in the United States, and then the acute crisis of the euro, both the EU institutions and the Member States of the Euro zone have developed new legislation and regulation. The Court of Justice of the EU has also strengthened and developed its case-law. Therefore, since the publication of the First edition of the two volumes of the Casebook, the EU law has been the subject of deep transformation. Moreover, it is addressing now 27 Member States (28 with the accession of Croatia in 2013) and more than half a billion citizens. Actually, through its standards and legislation, it affects all business done within the remit of its borders, regardless the place or origin.

This means that this Second edition is more than welcome: it was needed. Anyone learning European law, interested in it or affected by it must be very grateful to its authors, and more particularly to Professor Alain Levasseur, for having undertaken and finished this gigantic task. The result is worth the effort: this Casebook helps to understand the constitutional framework of the EU, its complex structures and procedures, and its scope of action. It provides a very good knowledge of the scope and significance of European law, as interpreted by the EU Court of Justice in its case-law. As such, it is an indispensable tool for American lawyers. It is not by chance that all US major firms are represented in Brussels. The EU is the major trading partner of the USA, both for imports and exports, for goods as well as for services. It is also the place where an impressive flow of investment is taking place coming from the other side of the Atlantic Ocean. In order to implement correctly the applicable European law, it is necessary to know it, as well as to understand the principles used by the EU Court of Justice to give its authoritative interpretation. In order to try and influence the making of European law and to better inform the European lawmakers, American law firms, American enterprises and American investors need a good knowledge of the EU institutions, of their procedures and of the decision-making process. They will get it in this book.

Since the adoption of the Lisbon Treaty and the beginning of the euro crisis, the scope of action of the EU has enlarged. Its legislation, which already provides for a lot of standards in consumer protection and in environmental protection, is now extending rapidly to banking and securities. The euro crisis is pushing either the current 17 members of the Euro zone to adopt specific legislation applicable only to them, or the EU itself to go in the direction of a Banking Union. The possible transformation of the Euro zone into a genuine economic union (which would mean a control of national budgets as well as a convergence of economic policies) will also have immediate consequences for US banks and investors.

American students in European law and in Comparative law will have at their disposal, with this new edition, a Casebook of great value and which covers major fields of EU substantive law. It will allow them to have a good understanding of the case-law of the EU Court of Justice and of its underlying principles of interpretation. It will also help them to better understand the constitutional framework of the EU, its historic foundations and the link between the constitutional orders of the EU Member States and the new constitutional order established with the EU. Actually, even if aimed primarily at American Universities, students, lawyers and practitioners, it should and shall be one of the best Casebooks on the market for the European public as well. Following mainly American teaching methods, it will allow European readers to have a new and more critical point of view, starting in an analytical way from the basic legal material: treaties, legislation and case-law.

In a more practical way, this Casebook will also help the reader to find his way through the re-numbering of the articles of the Treaties as well with the major innovations of the Lisbon Treaty, among which the “permanent” President of the European Council, the new Foreign Policy Representative and the External Action Service, the new powers conferred upon the European Parliament and the Treaty-legal value given to the Charter of Fundamental Rights of the EU.

A separate Volume contains Selected Documents and is a useful complement to the Casebook.

To conclude, I will congratulate the authors to have managed to concentrate such a quantity of information and useful comments in one relatively manageable Volume. This valuable Casebook will be more than welcome, both in the USA and in Europe.

Jean-Claude Piris

Former Legal Counsel of the European Council
and of the Council of Ministers of the EU (1998-2010)

Acknowledgments

The authors are deeply indebted and most thankful, first and foremost, to their families for their understanding of our dedication to the task of putting together this new edition of our casebook on the law of the European Union. This work is truly as much theirs as it is ours.

In the second place, we gratefully acknowledge the support of the LSU Law Center, its Chancellor Jack Weiss, and the generous understanding and patience of our publisher Carolina Academic Press.

We ‘solidarily’ want to thank three exceptional student assistants who contributed tirelessly and meticulously to the background work necessary for the identification and selection of the countless documents available in such a field of research. They were Heather Kirk and Tiffany Garland and still is Katherine Wells. *Merci à vous trois.*

Linda May, our administrative assistant, was given, as her first assignment in her new job at the Paul M. Hebert Law Center, the awesome responsibility of ‘making sense’ out of the mountain of documents piled on her desk week after week. A daunting task most certainly because of these foreign accents, foreign words and strange names; undeterred, Linda went to work without looking back and finished the job. Thanks, Linda.

As is the case many times, there were some very dedicated librarians who worked silently, efficiently but anonymously to support us, the ‘authors,’ whose names are listed on the front cover page of this casebook. We want to recognize in particular Beth Williams (Director of the LSU Law Center Library), Philipp Gragg (now Director. . .), Ajaye Bloomstone, Susan Gaultier, Kevin Baggett, Susan Morrison . . .

Alain A. Levasseur