



# European Union Research

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## INTRODUCTION

### Post-World War II Europe

The European Union has its origins in the period following the end of World War II in 1945. Faced with political and economic uncertainty, many nations in western Europe began to consider the possibilities of increased cooperation as a means of improving economic performance and providing increased security. The Organization for European Economic Cooperation was created in 1948 as a multinational agency to assist in the administration of the Marshall Plan for the reconstruction of western Europe. Further multinational cooperation was fostered by the Council of Europe, a consultative organization established in 1949 to promote common action in economic, social, cultural, scientific, legal and administrative matters.

### Beginnings of a Common Market

The evolution of the European Union itself began in 1951 with the Treaty Establishing the European Coal and Steel Community ("ECSC"), 261 UNTS 140 (1951). This treaty provided a "common market" for the coal and steel industries of France, Germany, Italy, Belgium, the Netherlands, and Luxembourg, with regulations for pricing, transportation, competition, employment, and the abolition of subsidies. When the ECSC proved successful, attention focused on the creation of a "common market" for other sectors of the economy and for further economic integration. Ministers of the six ECSC countries negotiated and concluded two treaties, signed at Rome in March, 1957. The Treaty of Rome, 298 UNTS 11 (1957), established the European Economic Community and the EURATOM Treaty, 298 UNTS 167 (1957), created the European Atomic Energy Community. Both of these organizations officially came into existence on January 1, 1958.

### Treaty of Rome

The Treaty of Rome consists of 250 articles that set out broad policies and rules of procedure to regulate the economic life of the member states. The European Economic Community, the European Coal and Steel Community, and the European Atomic Energy Community collectively formed a truly supranational organization, the European Community, with member states ceding a substantial amount of their individual sovereignty to it. The European Parliament was created as the sole deliberative assembly of the European Economic Community, the European Coal and Steel Community, and the European Atomic Energy Community. Each of the communities, however, retained its own council and commission. This somewhat cumbersome arrangement existed until 1967 when the "Merger Treaty" of 1965, 4 ILM 776 (1965), came into effect, thus creating a single Council and Commission for all the European Community. From the late 1960s until the mid-1980s the Community continued to develop and refine a substantial body of law and procedure. In addition to this expansion of law and policy making, the Community also increased its membership during this period. Denmark, Ireland, and the United Kingdom joined the Community in 1973. Greece joined in 1981, and Spain and Portugal joined in 1986. The European Parliament, the single deliberative assembly of the European Community, held its first election by universal suffrage in June, 1979.

### Crisis in Confidence

Despite the increase in membership and opening of the election process, this period also brought a crisis in confidence to the Community. Because the Council required unanimous decisions, the lawmaking process was slow and cumbersome. The Parliament was functioning as a merely advisory body, to the dissatisfaction of its members. In the early 1980s a movement began in the Parliament to reform the decision-making and lawmaking processes. A Draft Treaty on European Union was brought forward by the Parliament in 1983. This Draft Treaty proposed majority rule rather than consensus, and an increased role for the Parliament. It was not accepted by other Community institutions, however. Although the Draft Treaty was not accepted, it increased awareness of the need for fundamental change. In February, 1986 the Single European Act, 25 ILM 506 (1986), was approved and sent to the member states for ratification. This act amended the Treaty of Rome with regard to economic policy, institutional voting methods, and increased cooperation among the Community institutions. A major economic mandate of the Single European Act involved the creation of an internal market system for the European Community by the end of 1992. The Single European Act came into effect in July, 1987.

### Treaty Developments in the 1990s

To further the goals of economic and monetary union, and to respond to the new political realities of Europe in the 1990s, meetings were held in late 1991 at Maastricht, the Netherlands. These meetings led to the drafting of a new Treaty on European Union (Maastricht Treaty). This Treaty, signed on February 7, 1992, made substantial changes to

the Treaty of Rome. The Maastricht Treaty established three “pillars” of action for the European Union: the European Community, based on existing law, a Common Foreign and Security Policy, and Co-operation in Justice and Home Affairs. It revised the role of the European Parliament, reapportioned power among the institutions, and amended the lawmaking procedure. Monetary union was promoted by a new foreign currency exchange system and the creation of the European Central Bank. The Maastricht Treaty came into force on November 1, 1993.

Less than four years later, meetings were held at Amsterdam to consider more changes to the European Union treaties. The Treaty of Amsterdam was signed on October 2, 1997, and came into force on May 1, 1999. It solidified the changes made by the Maastricht Treaty and added new elements. The Amsterdam Treaty introduced qualified majority voting, rather than unanimity, into the legislative process, and added a new flexibility to the process. This flexibility allows a group of at least eight member states to co-operate more closely by crafting legislation that applies only to those members. Other member states may exercise an option to join in this cooperative effort.

The Treaty of Nice, which entered into force on February 1, 2003, set out the methods and principles for handling the further expansion of EU membership. It widened the scope of decision-making by qualified majority voting, and set up the conditions necessary for the enhanced co-operation process. The Nice Treaty also streamlined the EU judicial system, to deal with the case overload.

The Treaty of Nice, and a consolidated version of the Treaty on the European Union, may be found at the European Union’s website: <http://europa.eu.int>.

### **Objectives of the European Union**

The European Union has as its objectives:

- To promote economic and social progress
- To assert the identity of the EU on the international scene
- To introduce European citizenship
- To develop an area of freedom, security, and justice
- To maintain and build on established EU law

### **Growth of the European Union**

Membership expansion continued into 1995, when Austria, Finland, and Sweden joined the European Union. EU membership increased dramatically on May 1, 2004 when ten new states joined: Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. The EU now consists of twenty five member states.

### **Purpose of This Guide**

The European Union has evolved from a relatively small alliance of states with common industrial interests to one of the world’s most important economic and political forces. Within its fifteen member states, 370 million people are affected in some way by its policies and decisions. Its economic power is vast, rivaling any of the large economic and industrial powers. The scope of European Union interest and concern has moved beyond the economic to the social and political as well. Anyone interested in the policies or procedures of the European Union, whether economic, monetary, or social, must understand and utilize its primary legal materials, as well as the increasing number of research tools and secondary sources available in both print and electronic formats. This guide is designed to assist a researcher in locating the primary legal materials of the European Union, and to analyze the major research tools and secondary sources pertaining to it.

## **THE INSTITUTIONS OF THE EUROPEAN UNION**

There are four major institutions of the European Union: the Parliament, the Commission, the Council, and the Court of Justice. An institution is a body created by one of the European Community treaties to carry out the tasks entrusted to the institution.

**The European Parliament** is a democratically elected assembly of 626 members. Parliament makes policy proposals and participates in drafting, amending, and adopting European Union laws. It is responsible for creating and administering the European Union’s budget.

**The Commission** consists of twenty members, who act independently of the member states. It makes proposals for European Union legislation and action, and oversees the Union’s common policies. The Parliament must approve the appointment of a Commissioner, and has power to censure Commission action.

**The Council** is composed of one minister for each member state government and for each subject. With the advice of the Parliament, the Council adopts legislation initially proposed by the Commission.

**The Court of Justice** is the supreme court of the European Union. It has fifteen judges and nine advocates-general. It has the authority to interpret and apply treaty provisions and legislative acts.

**A lower court, the Court of First Instance**, created in 1989, handles cases involving management-staff disputes in European Community institutions, enforcement of rules on competition policy, and cases relating to the Coal and Steel Community. Appeals against its judgments are brought to the **Court of Justice**.

Three other institutions are also active in oversight and policy development:

**The Court of Auditors** is a fifteen-member panel that monitors the management of European Union finances. The Maastricht Treaty gave it full institutional status in 1993.

**The Economic and Social Committee** and **the Committee of the Regions** are both advisory committees of 222 members each from various economic and social groups and local and regional authorities throughout the European Union.

## THE LEGISLATIVE PROCESS IN THE EUROPEAN UNION

Under the Treaty of Rome, the Commission proposed legislation and the Council adopted it in its final form. The European Parliament played only an advisory role in the proceedings. The Maastricht Treaty introduced, and the Amsterdam Treaty extended, a new legislative process, the Co-Decision procedure. This new procedure gave the Parliament an active role in the legislative process. It puts the Parliament and the Council on an equal footing, and allows for the adoption of joint Parliament and Council legislation. Most of the major areas of legislative activity within the European Union, such as the free movement of workers, the internal market, the environment, consumer protection, education, culture, and health, are now subject to the Co-Decision procedure.

In the Co-Decision procedure, the Commission proposes legislation and the Council begins its deliberations. At the same time the Parliament, in its first reading of the legislation, considers the proposal and issues an opinion on it. If the Parliament has no amendments, or if the Council agrees to those amendments, the legislation can be adopted without any further procedures. When disagreements arise, the Council will adopt a common position and communicate it, with reasons, to the Parliament. If the Parliament agrees with the common position, or fails to act within three months, the legislation is adopted. A rejection of the common position during the first reading will act as a veto of the legislation. Parliamentary amendments made during the second reading must be approved by the Council. Disagreements at this stage are referred to a Conciliation Committee, which will attempt to create a mutually acceptable joint text. If the Conciliation Committee fails in this task, the legislation falls.

## TYPES OF EUROPEAN UNION PRIMARY SOURCES

**Treaties** make up the basic constitutive law of the European Union. Any policies or legislation of the Union must be undertaken in pursuit of and in concert with the principles set forth in the treaties. There are thirteen treaties, from the European Coal and Steel Community Treaty of 1951 to the Amsterdam Treaty of 1997. Any other treaties of the individual member states are also part of the law of the European Union, insofar as they deal with matters covered by the basic European Union treaties.

**Secondary legislation**, made up of regulations, directives, and decisions, is the massive body of law that controls the life and operation of the European Union. These laws can only be adopted by the Council or the Commission acting within the scope of their authority under the treaties. In order to comprehend fully the importance of secondary legislation, a researcher must understand its inherent hierarchy:

- **Regulations** - laws that have general application and are binding in their entirety on the member states of the European Union. They constitute direct and immediate legislative enactments in the member states, and do not allow for amendment or supplementation by a member state's legislature.
- **Directives** - laws that are binding upon member states as to the result to be achieved, but which leave to member states' legislative or executive bodies the means by which to bring the state into conformity with the principles expressed in the directive.
- **Decisions** - similar to regulations in their direct and immediate application, these are addressed to a single member state, institution, or individual person.

- **Recommendations** and **opinions** are advisory in nature, and have no binding application or effect upon individuals, institutions, or member states. Unlike regulations, directives, and decisions, their legality and interpretation cannot be considered by the European Court of Justice.

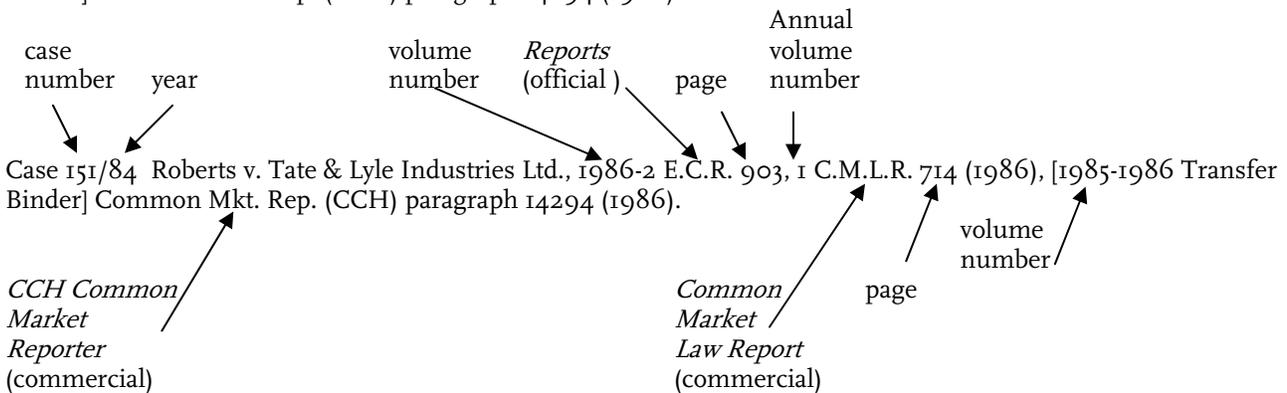
**The European Court of Justice**, and the recently formed **Court of First Instance**, derive their power and jurisdiction from the treaties. These courts express themselves in the form of judgments or opinions in cases before them. The Court of Justice has developed an extensive body of case law. Its major function is to interpret and construe European Union treaties and secondary legislation. National courts from the member states may request the Court's assistance in interpreting or construing a treaty or secondary legislation.

### HOW TO READ A EUROPEAN UNION CITATION

To locate European Union materials, a researcher must be familiar with their various citation forms. The *Uniform System of Citation* (Bluebook) sets out the form for European Union materials at Rules 20.5.2 and 20.8.2. Here are examples of the most frequently encountered citations:

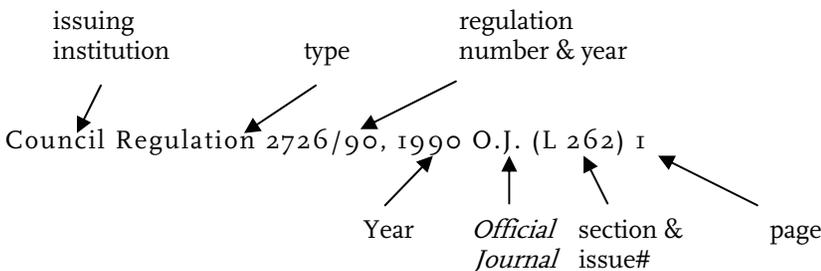
#### European Court of Justice and Court of First Instance

Case 151/84 Roberts v. Tate & Lyle Industries Ltd., 1986-2 E.C.R. 903, 1 C.M.L.R. 714 (1986), [1985-1986 Transfer Binder] Common Mkt. Rep. (CCH) paragraph 14294 (1986).

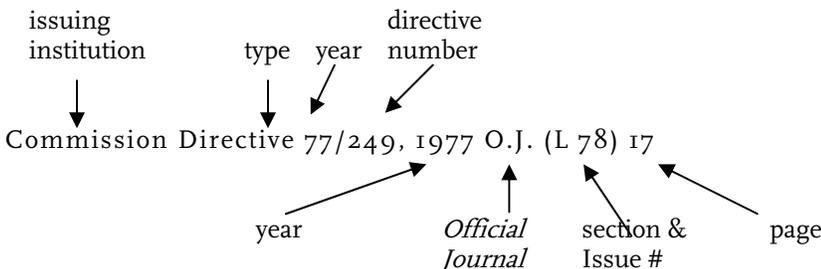


#### Regulations and Directives

Council Regulation 2726/90, 1990 O.J. (L 262) 1

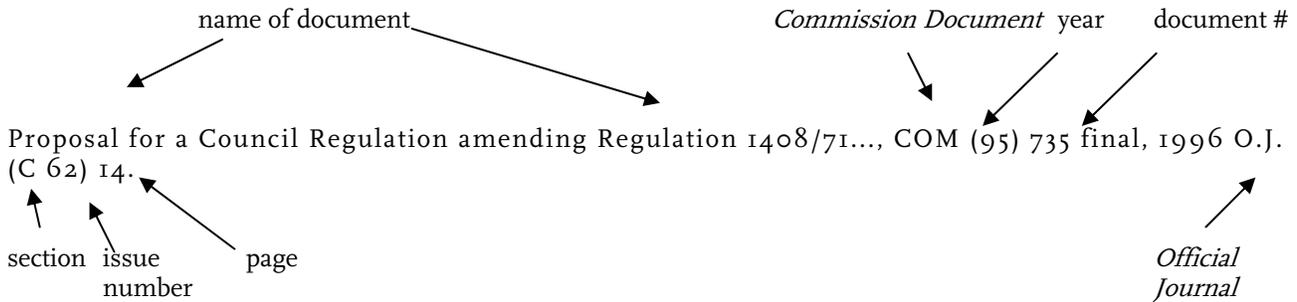


Commission Directive 77/249, 1977 O.J. (L 78) 17



## Commission Documents

Proposal for a Council Regulation amending Regulation 1408/71..., COM (95) 735 final, 1996 O.J. (C 62) 14.



## WHERE TO FIND EUROPEAN UNION PRIMARY SOURCES

### Treaties

Since the treaties comprise the fundamental law of the European Union, and their principles guide all other lawmaking, anyone researching a topic in European Union law must locate relevant treaty provisions. An official compilation of the treaties is published by the Office for Official Publications:

*Treaties Establishing the European Communities*. Luxembourg: 1987. (Not in the Boston College Law Library's collection).

Treaty texts are also available in numerous commercially published sources, including:

*The Encyclopedia of European Union Law*. London: Sweet & Maxwell, 1996. LAW GENERAL COLLECTION KJE 921.5 A8 E54.

The European Union's *Europa* website also provides the updated text of consolidated versions of treaties, as well as the text of individual treaties. These collections are available at <http://www.europa.eu.int/eur-lex/lex/en/index.htm>.

### Legislation

After a researcher is familiar with relevant treaty provisions, the next step involves finding regulations, directives, and decisions of the Council and the Commission. The official text of European Union legislation is published in:

*Official Journal of the European Communities*. Luxembourg: Office for Official Publications, 1973-. LAW MICROFORMS, Cabinet 32.

Direct access to the *Official Journal* from 1998 onwards is available on the *Europa* website, at <http://www.europa.eu.int/eur-lex/lex/en/index.htm>. The texts published in the *Official Journal* prior to 1998 can also be accessed using the site's search functions.

The *Official Journal* contains the text of both proposed and final legislation. It is also the authoritative source for European Union treaties. Published daily, the *Official Journal* is divided into two series. The L series contains regulations, directives, and decisions adopted by the Council and the Commission. The C series includes the text of proposed legislation, as well as reports of activities and notices of European Court of Justice judgments. Harmonizing legislation, such as that passed by a member state's legislature to implement a directive, is not published in the *Official Journal*. Before 1973, the *Official Journal* was published only in French. It is now published in both English and French.

European Commission Documents are an important source of legislative information. As the initiator of the legislative process in the European Union, the Commission submits proposals for Council and Commission Regulations and Directives. The final version of these proposals appear in the C section of the *Official Journal*.

The Commission also publishes these legislative proposals, along with explanatory memoranda not included with the *Official Journal* text of a proposal:

*Commission of the European Communities Documents*. Brussels: Commission of the European Community, 1980-. The Boston College Law Library's collection begins in 1994. LAW MICROFORMS, Cabinet 32.

Direct access to Commission Documents from 1999 onwards is available on the *Europa* website, at <http://europa.eu.int/eur-lex/lex/en/prep/index.htm>.

## Judgments

The judgments of the European Court of Justice and the Court of First Instance are also critical for a researcher working in any area of European Union law. The judgments of both of these courts are published officially in:

*Reports of Cases Before the Court*. Luxembourg: Office for Official Publications, 1959-. LAW MICROFORMS Cabinet 32; 1959-89 LAW GENERAL COLLECTION KJE 924.5 .A2.

Judgments are published in French, and then translated into the other official languages of the European Union, including English. This translation process has slowed the publication of the official *Reports of Cases*, but two commercially published sources provide more timely English translations:

*Common Market Law Reports*. London: Sweet & Maxwell, 1962-. LAW GENERAL COLLECTION KJE 923.7 .C65.

*European Union Law Reporter* (formerly known as the *Common Market Reporter*). Chicago: Commerce Clearing House, 1962-. LAW GENERAL COLLECTION KJE 925.5 .C655.

Both of these commercial reporters include the judgments of the Court of Justice and the Court of First Instance, as well as certain Commission decisions. The *Common Market Law Reports* also includes the text of judgments from the courts of member states that interpret or apply principles of European Union law and practice.

## HOW TO FIND EUROPEAN UNION MATERIAL

The lawmaking bodies of the European Union have fashioned an extensive array of treaties, secondary legislation, and court opinions on a wide variety of economic, political, and social topics. Considering the amount of European Union material available, a researcher would be well advised to begin work with one of the general guides listed below:

*Halsbury's Laws of England*, 4<sup>th</sup> edition, volumes 51 and 52. London: Sweet & Maxwell, 1973-. LAW GENERAL COLLECTION KD 310 .H34 1973.

Hartley, Trevor C. *The Foundations of European Community Law: An Introduction to the Constitutional and Administrative Law of the European Community*, 4<sup>th</sup> edition. New York: Oxford University Press, 1998. LAW GENERAL COLLECTION KJE 947. H37 1998.

*The Law of the European Community: A Commentary on the EEC Treaty*. New York: Matthew Bender, 1995-. LAW GENERAL COLLECTION KJE 947 .S64x.

Here are some examples of works on specific areas of European Union Law:

### Court of Justice

Arnall, Anthony. *The European Union and its Court of Justice*. New York: Oxford University Press, 1999. LAW GENERAL COLLECTION KJE 5461 .A97 1999.

### Banking

Smits, Rene. *The European Central Bank: Institutional Aspects*. Boston: Kluwer Law International, 1997. LAW GENERAL COLLECTION KJE 2188 .S63 1997.

### Competition

Korah, Valentine. *An Introductory Guide to EC Competition Law and Practice*, 6<sup>th</sup> edition. Oxford, England: Hart, 1997. LAW GENERAL COLLECTION KJE 6456 .K67 1997.

### Corporations

Edwards, Vanessa. *EC Company Law*. New York: Oxford University Press, 1999. LAW GENERAL COLLECTION KJE 2448 .E39 1999.

### Environment

Gillies, Dorothy. *A Guide to EC Environmental Law*. London: Earthscan, 1999. LAW GENERAL COLLECTION KJE 6242 .G55 1999.

## Human Rights

Alston, Philip, editor. *The EU and Human Rights*. New York: Oxford University Press, 1999. LAW GENERAL COLLECTION KJE 5132 .E9 1999.

For assistance in understanding the publication system of the European Union, a researcher should consult these sources:

Reynolds, Thomas H. and Arturo A. Flores. *Foreign Law: Current Sources of Codes and Legislation in Jurisdictions of the World*, Vol. II-A. Littleton, CO: Fred Rothman, 1994. LAW REFERENCE AREA K38 .R49 1989.

Thomson, Ian. *The Documentation of the European Communities: A Guide*. London: Mansell, 1989. LAW REFERENCE AREA KJE 901 .T47 1989.

An excellent overview of the entire European Union legal research process is provided in:

Carpenter, Liz and Hodgson, Kate. *Legal Research and the Law of the European Communities*. Mytholmroyd, England: Legal Information Resources Limited, 1997. LAW REFERENCE AREA KJE 928 .J44x.

Raisch, Marylin. "The European Union: A Selective Research Guide," 1 *Columbia Journal of European Law* 149 (1994/1995).

## HOW TO TRACK DEVELOPMENTS IN EUROPEAN UNION LAW

One of the challenges of European Union legal research is tracking developments in this very active area. Listed below are sources that help a researcher stay current on European Union legal developments.

These two publications provide detailed subject coverage of European Union legal developments:

*Bulletin of the European Union* (formerly the *Bulletin of the European Communities*). Brussels: European Commission, 1984-. LAW GENERAL COLLECTION KJE 903 .B84x (Current issues at same call number in LAW REFERENCE AREA).

*European Access*. London: Chadwyck-Healy, 1992-. LAW GENERAL COLLECTION KJE 901 .E87.

The following looseleaf service is one of the best sources for recent European Union developments. It features a broad subject arrangement, the text of recent directives, regulations, decisions, and European Court of Justice cases, and a finding list to locate specific information by directive, regulation, or decision cite:

*European Union Law Reporter* (formerly known as the *Common Market Reporter*). Chicago: Commerce Clearing House, 1962-. LAW GENERAL COLLECTION KHE 925.5 .C655.

Published by the American Society of International Law, this monthly publication is often the first source to print major European Union treaties and other documents:

*International Legal Materials*. Washington, DC: American Society of International Law, 1962-. LAW GENERAL COLLECTION KZ 64 .I58 (Current issues on Reserve). Also available on Westlaw in the ILM database from 1980 forward (selected coverage only), and on LexisNexis in the INTLAW library, ILM file from 1980 forward.

The following monthly publication provides excellent subject coverage of European Union legal developments, as well as legal developments in the domestic law of the member states of the European Union, and others:

*European Current Law: Monthly Digest*. London: Sweet & Maxwell, 1994-. LAW REFERENCE AREA KJC 30. E97x.

The two sources below are useful to check the status of a regulation, directive or decision:

*Directory of Community Legislation in Force*, 2 volumes. 30<sup>th</sup> edition. Luxembourg: Office for Official Publications of the European Communities, 1984-. LAW REFERENCE AREA KJE 920.5 .D57.

*European Communities Legislation: Current Status*. London: Butterworths, 1988-. LAW GENERAL COLLECTION KJE 920 .E97.

## USING LEXISNEXIS AND WESTLAW IN EUROPEAN UNION LEGAL RESEARCH

Although known primarily for coverage of American law, LexisNexis and Westlaw provide substantial coverage of European Union primary materials. LexisNexis and Westlaw also provide current information on European Union developments through specialized topical files and databases, as well as through newspapers and wire services with extensive European coverage. Consult the database directories for more information.

## EUROPEAN UNION RESOURCES ON THE INTERNET

The European Union has its own website, *Europa*, at <http://europa.eu.int>. This site provides the full text of many important primary documents as well as updated information on new developments in the European Union. Another very useful site is located at the University of California, Berkeley. *European Union Internet Resources*, at [http://www.lib.berkeley.edu/doemoff/gov\\_eu.html](http://www.lib.berkeley.edu/doemoff/gov_eu.html), provides links to the *Europa* website and to many other European Union-related websites.

## CONCLUSION

European Union legal research may seem at first to be a daunting task. However, once a researcher gains familiarity with the treaty system, the differing types of legislative enactments and their implications for member states, and the court system of the European Union, the task becomes more comprehensible and practicable. Using a general introduction to the law of the European Union, a subject treatise, and periodical literature, a researcher will gain a clearer view of the project. A researcher may use both print and electronic resources to update the status of legislation and gain an understanding of new developments. With a systematic approach to the project, use of the available sources, and the assistance of the Boston College Law Library reference staff, a European Union legal researcher should be able to complete successfully even the most complicated and difficult projects.

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An electronic version of this guide may be found at

<http://www.bc.edu/schools/law/library/research/researchguides/>

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