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European Union Legal Materials: An Infrequent User’s Guide

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European Union Legal Materials:
A Guide for Infrequent Users*

Duncan E. Alford**

With the admission of ten additional European nations to the European Union in 2004, the EU has become an even more prominent economic power in the world. Mr. Alford's guide is intended to aid infrequent users of EU materials in locating sources of its law and official documents.

Contents

Brief Overview ........................................... 51
Official Web Site—Europa ................................ 52
Principal Institutions of the EU ....................... 52
  Executive Branch ....................................... 53
    European Commission ............................... 53
    European Council .................................. 54
    European Central Bank ............................. 54
Legislative Branch ...................................... 54
  Council of the European Union ..................... 54
  European Parliament ................................ 54
  Committee of the Regions ........................... 55
  Economic and Social Committee ..................... 55
Judicial Branch .......................................... 56
  European Court of Justice .......................... 56
  Court of First Instance ............................. 56
  European Court of Auditors ......................... 56
Introductory Treatises and Texts ...................... 57
Dictionaries and Directories .......................... 57
Treaties .................................................. 58
  Founding Treaties ................................... 58
  Accession Treaties .................................. 59
Electronic Databases .................................. 59
Print Versions .......................................... 60
Convention on the Future of Europe .................. 61

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** Head of Reference, Georgetown University Law Library, Georgetown University Law Center, Washington, D.C. The author wishes to thank Silke Sahl and Marylin Raisch for their helpful comments.
| Legislation .................................................. 61 |
| Legislative Process ....................................... 61 |
| Official Journal of the European Union .................. 63 |
| How to Find a Document with a Citation (or Partial Citation) ... 64 |
| How to Find EU Legislation by Subject ................... 65 |
| Commission (COM) Documents ................................ 66 |
| Council of Ministers Documents ............................. 67 |
| Parliamentary Documents and Reports ...................... 68 |
| Parliamentary Questions ..................................... 68 |
| Economic and Social Committee Documents .................. 68 |
| Committee of the Regions Documents ....................... 68 |
| Status of Legislation ........................................ 68 |
| National Implementing Legislation ......................... 69 |
| Case Law ..................................................... 69 |
| Official Publications ......................................... 71 |
| Electronic Sources ............................................ 71 |
| Print Sources ................................................ 71 |
| Official Reports on EU Activities ......................... 72 |
| Journals and Periodicals ...................................... 73 |
| Indexes ....................................................... 73 |
| Selected Journals ............................................. 73 |
| Research Guides .............................................. 74 |
| Recent Articles on EU Legal Research ...................... 75 |
| European Union Depository Libraries ...................... 75 |
| Conclusion .................................................... 76 |

1. This guide is intended for the researcher who infrequently needs to research European Union (EU) law or related materials or to locate EU official documents. The expert or experienced researcher should consult the research guides listed at the end of this article\(^1\) for more detailed information on EU legal materials.

2. With the addition of ten new member states in 2004, the EU currently has a population of approximately 450 million people comprising twenty-five European nations.\(^2\) The EU gross national product has a value of nearly U.S. $9 trillion, roughly the size of the U.S. economy.\(^3\) Because the EU is a major trading partner with the United States, knowledge of EU law will become more widespread as this organization takes a more prominent role in international trade and international affairs generally. Even the law library that does not con-
sider international law a strength of its collection will occasionally have to meet the needs of patrons seeking to locate information on EU law.4

**Brief Overview**

¶ 3 The European Union is a supranational organization whose twenty-five members include most countries of Europe.5 Each member nation is referred to as a member state. The current twenty-five member states are Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovenia, Slovakia, Spain, Sweden, and the United Kingdom.6

¶ 4 The EU began as the European Coal and Steel Community (ECSC) in 1953 with an original purpose of regulating the capacity of large metal-fabricating industries. The six original member states—Belgium, France, Germany, Italy, Luxembourg, and the Netherlands—signed the ECSC Treaty7 and began the process of European integration. Since then, the EU has evolved in stages with the creation of an economic community, development of a single market, the removal of many trade restrictions and border controls, and the issuance of a common currency. In recent years, the EU has made efforts to develop a common foreign affairs policy and to improve cooperation among member states on justice and home affairs.

¶ 5 While the press and media refer to the supranational organization as the European Union, the EU itself currently has no separate legal identity. Rather, the EU is composed of two communities that each have a legal identity: the European Atomic Energy Community or Euratom, and the European Community.8 Of the two communities, the European Community is by far the more important.

¶ 6 EU government policy is divided into three pillars which consist of the following:

- **Pillar I:** the policies underlying the European Coal and Steel Community, the European Community, and Euratom

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4. For example, the U.S. Supreme Court in a recent decision dealing with the Copyright Clause of the U.S. Constitution had occasion to cite EU law in its opinion. Eldred v. Ashcroft, 537 U.S. 186, 196 (2003) (citing the extension of copyright terms as required by EU law as a motivation for extending the term of copyright by the Sonny Bono Copyright Term Extension Act).
5. Switzerland and Norway are not members of the European Union. They, along with Iceland and Liechtenstein, are members of the European Free Trade Association. European Free Trade Ass’n, at http://www.efta.int/ (last visited Oct. 31, 2004).
6. The newest members of the EU are ten nations from central and eastern Europe that joined on May 1, 2004: Cyprus, the Czech Republic, Estonia, Hungary, Poland, Slovenia, Latvia, Lithuania, Malta, and Slovakia.
7. **TREATY ESTABLISHING THE EUROPEAN COAL AND STEEL COMMUNITY, Apr. 18, 1951, 261 U.N.T.S. 140 (ECSC TREATY OR TREATY OF PARIS).**
8. The European Coal and Steel Community terminated its existence in July 2002 and its assets were transferred to the European Community. Protocol (34) on the Financial Consequences of the Expiry of the ECSC Treaty and on the Research Fund for Coal and Steel, Treaty Establishing the European Community, 2001 O.J. (C80) 67.
• Pillar II: common foreign and security policy
• Pillar III: justice and home affairs—judicial cooperation in civil and criminal matters, police cooperation, and immigration policy

¶7 The principal offices of the EU are located in Brussels, Belgium, although other EU institutions have offices in Luxembourg; Frankfurt, Germany; and Strasbourg, France. The EU currently recognizes twenty official languages.

Official Web Site—Europa

¶8 Europa (http://europa.eu.int), the official Web site of the European Union, is the first place to look for EU information because it provides excellent access to official EU documents, especially documents published since 1998. A brief guide to the information sources on Europa is available on the site (http://europa.eu.int/geninfo/info-en.htm). Europa contains many databases on various topics, from press releases of the Council of Ministers to tariff quotas. Researchers should consult Europa’s list of databases (http://europa.eu.int/geninfo/info/guide/index_en.htm#db) to familiarize themselves with the sources on the site.

¶9 EurLex (http://europa.eu.int/eur-lex/lex/en/index.html), the “portal to European law,” is a free legal database maintained by the European Commission that contains the full text of treaties, legislation, court decisions, and other official documents of the European Union. It is the best free source of official EU legal information. References to EurLex will be frequent throughout this article. The European Commission has redesigned EurLex by incorporating CELEX, the official legal database of the EU, into EurLex as of November 1, 2004.

Principal Institutions of the EU

¶10 The following descriptions of the principal institutions of the EU focus on the legal activities and structure of each. The necessarily brief treatment makes this section so simplistic that the descriptions border on being misleading.9 Subsequent sections of this article contain more detailed instructions on legal research related to each institution.

¶11 To legal researchers familiar with the United States legal system, table 1 compares the governmental institutions of the European Union and the United States. This analogy is flawed at the outset because the two legal systems are very different in their age, their legal traditions, and their history, among many other factors. Nevertheless, the table may help the reader begin to understand the relationships of these EU institutions.

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9. For a more complete discussion of these institutions, readers should consult one of the books listed in Introductory Treatises and Texts, infra ¶ 26.
Table 1

Comparison of EU and U.S. Governmental Institutions

<table>
<thead>
<tr>
<th>European Union</th>
<th>United States</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Executive Branch</strong></td>
<td></td>
</tr>
<tr>
<td>European Commission and its</td>
<td>U.S. President and the Cabinet</td>
</tr>
<tr>
<td>Directorates General</td>
<td></td>
</tr>
<tr>
<td>European Council</td>
<td>Federal Reserve System</td>
</tr>
<tr>
<td>European Central Bank</td>
<td></td>
</tr>
<tr>
<td><strong>Legislative Branch</strong></td>
<td></td>
</tr>
<tr>
<td>Council of the European Union</td>
<td>U.S. Senate</td>
</tr>
<tr>
<td>(Council of Ministers)</td>
<td></td>
</tr>
<tr>
<td>European Parliament</td>
<td>U.S. House of Representatives</td>
</tr>
<tr>
<td>Committee of the Regions</td>
<td>Congressional committee system</td>
</tr>
<tr>
<td>Economic and Social Committee</td>
<td>Congressional committee system</td>
</tr>
<tr>
<td><strong>Judicial Branch</strong></td>
<td></td>
</tr>
<tr>
<td>European Court of Justice</td>
<td>Supreme Court of the United States</td>
</tr>
<tr>
<td>Court of First Instance</td>
<td>U.S. Circuit Courts of Appeal</td>
</tr>
<tr>
<td>Court of Auditors</td>
<td>General Accounting Office, auditors</td>
</tr>
</tbody>
</table>

**Executive Branch**

**European Commission**

§12 The European Commission (http://europa.eu.int/comm/index_en.htm) is the primary generator of new legislation in the EU. The commission proposes new legislation and launches new policy initiatives. The commission also serves as the executive branch of the EU and enters into international agreements on behalf of the EU. As the guardian of EU policy, the commission can initiate legal proceedings to ensure compliance with EU policy and legislation.10

§13 The commission currently consists of twenty-five commissioners who are selected by the member states. Each member state may have a national on the commission.11 Each commissioner has a separate portfolio—an area of policy concern. The staff of the commission is organized into thirty-six directorates-general (DG) or departments which have distinct areas of policy responsibility.12 DGs are roughly

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12. Previously, DGs were referred to by Roman numeral, but since September 1999 (six months after the commission resigned en masse under pressure because of serious allegations of corruption), DGs have been reorganized and are no longer referred to by Roman numeral. Currently, DGs are referred to by the name of their policy portfolio such as economic and monetary affairs.
equivalent to the executive branch departments in the United States government, such as the U.S. Department of Agriculture. For instance, the Competition DG deals with the approval of mergers and acquisitions of business enterprises. The European Commission is roughly equivalent to the executive branch of the U.S. government, particularly the Office of the President of the United States and the cabinet-level agencies.

¶14 Each directorate-general maintains an individual Web site that contains information on the policy area for which it is responsible. Frequently, working papers and preliminary reports prepared by the DG are available on its Web site. Europa provides links to the Web pages of the various commission DGs (http://www.europa.eu.int/comm/dgs_en.htm).

**European Council**

¶15 Consisting of the heads of state (presidents and prime ministers) of EU members, the European Council meets twice a year, usually in January and June. The president of the council (having a six-month term) hosts the council meeting. This body is distinct and separate from the Council of the European Union described below.13

**European Central Bank**

¶16 The European Central Bank (www.ecb.int) makes and implements monetary policy and is responsible for the issuance of the EU’s common currency—the Euro. Great Britain, Sweden, Denmark, and the ten new member states have not adopted the Euro as their national currency. The European Central Bank is roughly analogous to the Board of Governors of the Federal Reserve System in the United States.

**Legislative Branch**

*Council of the European Union*

¶17 The Council of the European Union (http://ue.eu.int/en/summ.htm), also known as the Council of Ministers, is a separate and distinct body from the European Council described earlier.14 Composed of selected ministers from each member state, the council exercises legislative power along with the European Parliament. The council operates through committees such as the Permanent Representatives Committee (COREPER).15 The Council of Ministers is roughly analogous to the United States Senate.

**European Parliament**

¶18 The European Parliament (www.europarl.eu.int) originally had little political power or authority. As the EU developed, the parliament gained more power in the

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13. See infra ¶17.
14. See supra ¶15.
15. BORCHARDT, supra note 10, at 41.
legislative process, but it still does not yet have the legislative power typically associated with a national parliament or legislative body.\textsuperscript{16} The European Parliament is roughly analogous to the United States House of Representatives. However, in the United States, the House of Representatives and the Senate have equivalent power in enacting most legislation. In the EU, the Council of Ministers generally has greater legislative power than the European Parliament.

\textsuperscript{16} This political assembly of 626 members is directly elected by the citizens of the EU member states. The maximum number of European Parliament members will not exceed 732.\textsuperscript{17} Representation is roughly proportional to the population of the EU member states. Members of the European Parliament are sometimes referred to as MEPs.

\textsuperscript{17} The parliament has no authority to propose legislation directly, but may request the European Commission to propose legislation. The parliament must approve most legislation, in particular the annual EU budget, and has withheld its approval in order to influence legislation proposed by the European Commission.\textsuperscript{18}

\textbf{Committee of the Regions}

\textsuperscript{18} Created by the Treaty of Maastricht in 1992,\textsuperscript{19} the Committee of the Regions (COR) (www.cor.eu.int) is a consultative body composed of 317 members with 317 alternates who serve four-year terms. Membership is roughly proportional to the populations of the member states.\textsuperscript{20} The Council of Ministers appoints members proposed by member states who are generally local, municipal, or regional officials. The COR must be consulted during the legislative process regarding laws affecting trans-European infrastructure, education, culture, environment, or employment, or those having a particular local or regional effect. The COR issues opinions on legislation at the request of other EU institutions or can issue opinions on its own initiative.

\textbf{Economic and Social Committee}

\textsuperscript{19} The Economic and Social Committee (www.esc.eu.int), a consultative body created by the Treaty of Rome,\textsuperscript{21} issues opinions on legislation dealing with labor, transport, consumer protection, public health, and education.\textsuperscript{22} Its 317 members are

\textsuperscript{20} Enlargement of the European Union will change the composition of the Committee of the Regions. TREATY OF NICE, DECLARATION ON THE ENLARGEMENT OF THE EUROPEAN UNION, 2001 O.J. (C80) 80, 84.


\textsuperscript{22} Enlargement of the European Union will change the composition of the Economic and Social Committee. DECLARATION ON THE ENLARGEMENT OF THE EUROPEAN UNION, supra note 20, 2001 O.J. (C80) at 83.
appointed by the council, and the membership is roughly proportional to the populations of the member states. The membership is divided into three equal groups which represent labor unions, professional bodies (accountants, physicians, attorneys, etc.), and consumer groups among others.

**Judicial Branch**

**European Court of Justice**

¶23 The European Court of Justice (http://curia.eu.int/en/), consisting of twenty-five judges and eight advocates-general, interprets and adjudicates disputes over EU law, a separate body of law distinct from and supreme over the law of the member states. The judges are elected by common accord among the member states and serve staggered terms of six years. Under the terms of the Treaty of Nice, each member state will have a national serve on the court. The eight advocates-general are appointed by common accord and serve six-year terms. The Council of Ministers may increase that number at the request of the court. The ECJ is roughly analogous to the Supreme Court of the United States.

**Court of First Instance**

¶24 Consisting of twenty-five judges, this intermediate court also decides disputes regarding EU law. This court was created in 1989 to alleviate delays in deciding cases by the Court of Justice because of its increased caseload. The court's jurisdiction was originally focused on competition cases and staff cases and it did not hear actions brought by member states. The Treaty of Nice expanded the jurisdiction of the Court of First Instance and provided that the court shall have at least one judge from each member state. The Court of First Instance is roughly analogous to the United States Courts of Appeal, although the Court of First Instance does serve as a trial court on occasion.

**European Court of Auditors**

¶25 Consisting of twenty-five representatives of the member states, the European Court of Auditors (http://www.eca.eu.int/index_en.htm) audits the accounts and implements the budget of the EU. It issues an annual report, special reports, and opinions.

26. Treaty of Nice, supra note 11, art. 2, ¶ 27, 2001 O.J. (C80) at 22 (amending Article 221 of the Treaty Establishing the European Communities).
27. Id., art. 2, ¶ 31, 2001 O.J. (C80) at 23 (amending Article 225 of the Treaty Establishing the European Communities).
28. Id., art. 2, ¶ 30, 2001 O.J. (C80) at 23 (amending Article 224 of the Treaty Establishing the European Communities).
29. Under the Treaty of Nice, each member state shall have a national on this court. Id., art. 2, ¶ 36, 2001 O.J. (C80) at 25 (amending Article 247 of the Treaty Establishing the European Communities).
Introductory Treatises and Texts

While there are numerous books on European Union law, the following is a very selective list of the better introductions to the topic.

- *European Union Law Reporter*. Chicago: CCH Editions. Formerly known as the *Common Market Law Reporter*, this multivolume loose-leaf service provides commentary on EU law by topic and includes the texts of treaties and digests of relevant EU laws. It is updated on a monthly basis.

Dictionaries and Directories

The EU is noted for its heavy use of jargon, sometimes called Eurospeak. The following books will help in deciphering unfamiliar terms.

- Delegation of the European Union to the United States, A to Z Index of European Union Websites (www.eurunion.org/infores/euindex.htm). While technically not a dictionary, this excellent Web-based alphabetical index of EU
organizations, agencies, and topics is maintained by the Washington Delegation of the European Commission.

• IDEA, the Electronic Directory of the European Institutions (http://europa.eu.int/idea/en/index.htm). Maintained by the European Commission, this database provides contact information for senior personnel of the European Union. Searchable by name, agency, or hierarchical structure.

Treaties

¶28 The European Union has developed over the past five decades from the six-member European Coal and Steel Community to the current twenty-five-member supranational organization through the adoption and ratification of treaties.

Founding Treaties

¶29 The text of the treaties are published in the Official Journal of the European Union, the official gazette of the EU.30 Other treaty series and commercial publications described below are also sources for the text of the EU treaties.

¶30 The founding treaties are frequently referred to as "primary legislation." In contrast, "secondary legislation" refers to directives, regulations, and other forms of law described later in the section on legislation.31

¶31 Following is a list of the founding treaties that provide the legal basis for the EU:

• Treaty Establishing the European Coal and Steel Community, Apr. 18, 1951, 261 U.N.T.S. 140 (ECSC Treaty or Treaty of Paris). This treaty expired by its own terms on July 23, 2002.

31. See infra ¶ 45.
Consolidated versions of the treaties incorporating the changes through the Treaty of Nice are available in the *Official Journal of the European Union*:


The Treaty of Amsterdam renumbered the articles of the founding treaties. Citations to specific articles of the founding treaties prior to the ratification of the Treaty of Amsterdam in 1997 will be to the old numbering scheme of the treaty articles. For example, the article on the creation of the internal market is cited as Article 14 (ex Art. 7a). The ex number refers to the numerical sequence of the treaty articles prior to the Treaty of Amsterdam. A table of equivalences showing the correspondence between the old and new numbering scheme was published in the *Official Journal* on October 11, 1997.\(^\text{32}\)

**Accession Treaties**

The EU has grown since its founding by admitting additional nations. New members of the EU must sign and ratify an accession treaty in order to join the EU. The five accession treaties (thus far) and their citations are listed below:

- Accession to the European Communities of the Kingdom of Denmark, Ireland, and the United Kingdom of Great Britain and Northern Ireland, Jan. 22, 1972, 1972 O.J. (L 73) 5 (First Accession Treaty).
- Accession to the European Economic Communities of the Kingdom of Spain and the Portuguese Republic, June 12, 1985, 1985 O.J. (L 302) 9 (Third Accession Treaty).

**Electronic Databases**

Both the founding and accession EU treaties are available in the following electronic databases:


\(^\text{32}\) 1997 O.J. (C340) 85.
• **Westlaw**—EU-TREATIES database contains founding treaties since 1951. Some documents are available in PDF format showing an image from the *Official Journal*.

• **LexisNexis**—EURCOM; TREATY database contains founding treaties since 1951, derived from the CELEX database.

• **CELEX**—Legislation File (Sectors 1-4). The official legal database of the EU was previously available by subscription only. Beginning July 1, 2004, CELEX became freely accessible on the Web (http://europa.eu.int/celex/htm/celex_en.htm). EurLex provides access to a portion of the content available on CELEX, but the latter provides content prior to 1998 (unlike EurLex) and allows for advanced searching capabilities. Much of the content of CELEX is available through other databases for a fee, such as Westlaw or LexisNexis, or in various print publications.

• **Lawtel EU**—Treaties database contains all the EU treaties.

### Print Versions

§36 The Office for Official Publications of the European Communities publishes several versions of treaties which are periodically updated:


• **European Union: Selected Instruments Taken From the Treaties.** Luxembourg: Office for the Official Publications of the European Communities, 1999.

§37 Copies of the treaties are also available in several commercial publications:

• **European Union Law Reporter.** London: Sweet & Maxwell, 1962–. The text of the treaties are contained in the last volume of this four-volume loose-leaf service.

• Neville March Hunnings, ed. **Encyclopedia of European Union Law.** London: Sweet & Maxwell, 1996–. This six-volume loose-leaf service contains the following types of EU materials: Volume 1, Founding Treaties; Volumes 1 and 2, Accession Treaties; Volumes 2 and 3, Other International Agreements; Volumes 4 and 5, EU Institutions; and Volume 6, the Three Pillars. It is updated on a quarterly basis.


• Hans Smit, Peter Herzog, Dennis Campbell, and Susan Cotter, eds. **Law of the European Economic Community.** New York: LexisNexis Matthew Bender, 1976–. This annually updated loose-leaf service analyzes the treaties article by article. It includes tables relating to the renumbering of treaty articles.
Convention on the Future of Europe

¶38 The European Constitutional Convention met in Brussels beginning in 2002 and in June 2003 completed its task of drafting a constitutional treaty that was presented to an intergovernmental conference held in fall 2003. The heads of state of the EU signed this treaty on October 29, 2004, in Rome. The signed version of the treaty is available in full text on Europa (http://europa.eu.int/constitution/constitution_en.htm). The treaty is currently in the ratification process by the member states, some of which will require a voter referendum.

Legislation

Legislative Process

¶39 Five institutions are involved in the EU legislative process: the European Commission, the Council of the European Union, the European Parliament, the Committee of the Regions, and the Economic and Social Committee. The commission, the council, and the parliament are primarily involved in enacting legislation. The Economic and Social Committee and the Committee of the Regions serve in a consultative role.

¶40 There are currently four methods for enacting legislation in the EU, listed here in order of importance and in reverse chronological order of their development:

1. Co-decision
2. Cooperation
3. Assent
4. Consultation

¶41 The procedure used depends on the substance of the proposed legislation. Co-decision is by far the most important of the four processes because a wide range of policy areas fall under its scope. Co-decision is also the most recently created legislative process (under the Maastricht Treaty and amended by the Treaty of Amsterdam) and, of the four methods, provides the most power to the European Parliament, reflecting its growing influence in EU law making.

¶42 Co-decision has become the principal manner by which legislation is adopted in the EU. Under the co-decision procedure, the European Commission, after consulting with national experts, submits a legislative proposal (frequently in the form of a COM document, discussed below) to the Council of Ministers which in turn forwards the proposal to the European Parliament. The parliament then

36. Borchardt, supra note 10, at 53–54
considers the legislation by first referring it to a committee that will issue a report. If the parliament agrees to the proposed text, the legislation is enacted. If the council and the parliament cannot agree on the legislation, the legislation potentially can go through three separate readings in parliament prior to enactment.  

\[43\] A unique feature of the EU legislative process lies in the methods of voting in the Council of Ministers: unanimity, simple majority, and qualified majority. Under qualified majority voting (QMV), each member state is assigned votes based roughly on its population. France, Germany, Italy, and the United Kingdom each receive twenty-nine votes. Malta receives the least number with three votes. Legislation is enacted by qualified majority if a majority of the member states approve the legislation and a minimum of 232 votes are cast in favor of the legislation (out of a total of 321 votes). In addition, a member state may ask for confirmation that the votes in favor of the legislation represent at least 65% of the EU’s population. The result of qualified majority voting is that a member state may vote against legislation but must nevertheless abide by its provision—a true cession of sovereign power to the EU.

\[44\] The other three methods of enacting legislation are used much less frequently. Co-operation is generally used only for legislation dealing with economic and monetary union. Consultation and assent are used to enact legislation dealing with agriculture, trade agreements, and taxation. Because these three methods are infrequently used, I do not include a detailed discussion of the steps in these legislative procedures.  

\[45\] This complicated legislative process results in one of the four principal types of EU legislation. Regulations are directly applicable to member states and require no further action to have legal effect. Directives are addressed to and are binding on member states, but the member state may choose the method by which to implement the directive. Generally, a member state must enact national legislation to comply with a directive. Decisions are binding on those parties to whom they are addressed. Recommendations and opinions have no binding force. In the eyes of the U.S. legal researcher, regulations are the closest equivalent to federal

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38. For more detail on the steps in this complicated process, readers should consult one or more of the sources listed in Introductory Treatises and Texts, supra ¶ 26. See, e.g., Borchardt, supra note 10, at 72–83; Hartley, supra note 25, at 41–53.


40. See Borchardt, supra note 10, at 63–69 (discussing the four types of EU legislation). The proposed EU constitutional treaty will change the names of these types of legislation to European law, European framework law, European decision, and recommendations and opinions. In addition, the constitutional treaty creates a new type of EU legislation: the European regulation (not to be confused with the previously used term regulation).
statutes. These four types of legislation are referred to as “secondary legislation” as opposed to the treaties which are referred to as “primary legislation.”

Official Journal of the European Union

§46 The Official Journal of the European Union is published daily in Luxembourg by the Office for the Official Publications of the European Communities. It is the EU’s official gazette and publishes the text of legislation and other official acts of the European Union. It contains treaties, all four of the principal types of legislation, working papers, judgments of the European Court of Justice, proposals for legislation, and other official communications between EU institutions. Prior to 1973 when the United Kingdom and Ireland joined the EU, the Official Journal (or the O.J.) was not published in English. It is now published daily in each of the twenty official languages of the EU. To the U.S. researcher, the O.J. is a combination of the United States Statutes at Large, the U.S. Treaty Series, the Federal Register, and the Congressional Record.

§47 There are six components to the Official Journal:

- **Legislation—L Series** contains regulations and directives adopted by the commission or the council alone or jointly with the European Parliament. Prior to 1968, the Official Journal was not divided into the L and C series.
- **Communications—C Series** contains nonbinding decisions of the EU institutions such as communications of the commission on various topics, court judgments, and opinions of the Committee of the Regions and the Economic and Social Committee.
- **Communications—CE Series** contains commission proposals since July 1999. It is only published electronically, with versions available on EurLex, CELEX, Westlaw, and LexisNexis. A table of contents of the electronic CE series is published in the print C Series. This electronic-only part of the O.J. began in July 1999.
- **Communications—CA Series** principally contains employment notices for EU institutions.
- **Annex-Decrees** contains verbatim reports of the plenary sessions of the European Parliament. The Annex-Decrees ceased publication in print after the May 1999 parliamentary session.
- **Supplement—S Series** contains notices of invitations to bid on EU-funded contracts. This series is available electronically through the TED (tenders) database (http://ted.publications.eu.int/CD/application/pif/resources/shtml/common/home/home.html).

41. Formerly known as the Official Journal of the European Communities, the Treaty of Nice mandated the change in title to the Official Journal of the European Union effective February 1, 2003. Treaty of Nice, supra note 11, art. 2, ¶ 38, 2001 O.J. (C80) at 26; see also Notice to Readers, 2003 O.J. (C20) S3 (Jan. 28, 2003).
Many EU legislative documents are available in an electronic version, but the EU considers only the print version to be official. The *Official Journal* is also available in the following electronic databases:

- **Europa/EurLex** (http://eurlex.eu.int) contains journals from January 1, 1998, to present. Some recent documents are in PDF.
- **LexisNexis**—EURCOM; LEGIS database includes coverage from January 1980 to present.
- **Westlaw**—EU-LEG database includes coverage from 1952 to present. EU-OJC-SERIES provides coverage from 1992 to present. Documents published after 1997 are available in PDF.
- **Lawtel EU**—Adopted legislation is complete since 1997 and nearly complete since 1952.

**How to Find a Document with a Citation (or a Partial Citation)**

A regulation is generally cited by its number, followed by its year. In contrast, a directive is cited by its year first, then its number.

**Example:** Council Regulation No. 44/2001 of 22 December 2000 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters, 2001 O.J. (L 12) 1. —This regulation is in the L Series of the *Official Journal* in the 2001 volume containing issue 12 for that year at page 1.

**Example:** First Council Directive 77/780 on the Coordination of the Laws, Regulations and Administrative Provisions Relating to the Taking up and Pursuit of the Business of Credit Institutions, 1977 O.J. (L 322) 30. —This directive was enacted in 1977 as Directive Number 780. If you did not have a citation to the *Official Journal*, but only the year and number, you could locate its text by searching:

- In LexisNexis, the document segment Title with "77/780"
- In Westlaw, the field Title with "77/780"
- In EurLex, use the “Search by document number” screen in the “Legislation” database by inserting the year 1977 and the document number 780.

Consolidated versions of legislation, while not official, are available on EurLex (http://europa.eu.int/eur-lex/en/consleg/index1.html). Consolidated versions of legislation reflect any amendments to the original text. Researchers should update the status of the consolidated legislation or any other EU legislation by checking the latest *Directory of Community Legislation in Force* or an electronic database to ensure no further amendments have been enacted.

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42. See infra ¶ 54 for a description of this source.
How to Find EU Legislation by Subject

§51 Frequently, you will want to find EU legislation on a particular legal topic. Unlike the federal statutes in the United States, there is no official codification of EU legislation. However, there are several sources, both electronic and print, that provide subject access to EU law.

Electronic Databases

§52 Similar to legal research in the United States, legal research in European Union law can be done effectively with Westlaw and LexisNexis. In Westlaw, search the database EU-ALL to ensure you search all types of EU documents (directives, orders, treaties, etc.). In LexisNexis, search EURCOM; ECLAW, which is equivalent to EU-ALL in Westlaw. In EurLex, search multiple databases such as the Official Journal, Legislation in Preparation, Legislation, Treaties, and Case Law. The search engine in EurLex is not as sophisticated as the software in Westlaw and Lexis.

§53 SCADPlus (http://europa.eu.int/scadplus/scad_en.htm) is a useful database produced by the EU. It is organized by subject area and provides summaries of EU activity in those areas. There is also an A–Z index of the contents. Another useful EU database is Activities of the European Union (http://europa.eu.int/pol/index-en.htm), which provides “mini-portals” to information from all EU institutions on thirty policy areas, such as economic and monetary affairs.

Print Sources

§54 EU legislation may be found by subject using the following print sources.


- *Directory of Community Legislation in Force and other Acts of the Community Institutions*. Luxembourg: Office for Official Publications of the European Communities, 1984–. The first volume of this two-volume set organizes legislation within the analytical structure of EU law used by the European Commission. The table of contents sets out the various subject areas. Within each subject area is listed EU legislation related to that subject area. This source is difficult to use because the researcher must be familiar with the analytical structure based on the text and divisions of the EU treaties in order to search the source efficiently. The second volume contains a subject index and chronological index with cross-references to the relevant page in the analytical structure set forth in volume 1. This set is updated twice each year on January 1 and July 1 and is also available on EurLex (http://europa.eu.int/eur-lex/en/lif/index.html). The electronic version contains hypertext links to EU documents, some of which are available in PDF.
COM Documents

¶55 Commission Documents, also known as COM documents, include legislative proposals, communications, and reports such as "green papers" or "white papers" issued by the staff of the European Commission. COM documents are numbered sequentially each year and are referenced by number and date. COM documents are available in microfiche in some law libraries and in EU depository libraries.


¶56 COM documents are available in the following electronic databases: EurLex, in both Legislation in Preparation (http://eur-lex.europa.eu/lobbyen/com/index1.html) and Documents of Public Interest (http://eur-lex.europa.eu/lobbyen/search/search_dpi.html); Westlaw contains EU Preparatory Acts in EU-ACTS database; LexisNexis contains EU Preparatory Acts in EURCOM; PREP database; Clex, in Preparatory Acts file (Sector 5); and Lawtel EU contains Commission Documents (since 1987, full text since 2000) and Proposed Legislation (since 1987).

¶57 Most of these documents (without the useful explanatory memoranda) were published in the Official Journal C series until June 1999. After June 1999 selected COM documents are available in the electronic Official Journal CE Series on EurLex. Beginning in 2003, the EU ceased publication of COM documents in microfiche format, while providing them on CD-ROM. EurLex or CELEX will be the most readily available (but possibly incomplete) source for recent COM documents.

Council of Ministers Documents

¶58 Prior to 1999, Council of Ministers documents typically were kept confidential. Due to provisions in the Treaty of Amsterdam and a general policy of improved transparency in EU decision making, more council documents are now being made public. One of the most frequently sought types issued by the council is the Common Position, a statement of the council's position regarding an amendment to legislation by the European Parliament.

¶59 Council documents are available through its Public Register searchable database (http://europa.eu.int/documentsregisters/index_en.htm). Coverage begins with January 1999. Some documents are available in full text. Documents not marked as public may be requested. Types of documents included are

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Monthly Summaries of Council Acts;
- Council Minutes, which consist of two types—minutes concerning the adoption of the legal acts and general minutes; and
- Press Releases, which are eventually loaded into RAPID, the European Commission’s press release database, but are available first in the council’s press room on its Web site (http://ue.eu.int/newsroom/).

Parliamentary Documents and Reports

¶60 As an important institution involved in the legislative process, the European Parliament generates documents such as committee reports and floor debates that are of interest to legal researchers.

¶61 The European Parliament has created OEIL, the Legislative Observatory database (http://wwwdb.europarl.eu.int/dors/oeil/en/default.htm) to track parliamentary action on legislative proposals. It can be searched by multiple criteria such as keywords, document reference, legislation document number, and stage of legislative procedure.

¶62 In addition, the European Parliament maintains the following documents on its Web site:

- “Subjects of Current Interest” are covered in a portion of OEIL, the Legislative Observatory database (http://wwwdb.europarl.eu.int/oeil/oeil2.FR61_en); it organizes proposed legislation by topic and provides links to relevant documents.
- Reports of the European Parliament are available in Plenary Sessions of the European Parliament (http://www.europarl.eu.int/plenary/default_en.htm), a searchable database of reports published after 1994. Researchers request the A series documents (parliamentary reports) most frequently; these are roughly analogous to U.S. congressional committee reports.

Example: A4-0485/98, Report on the Communication from the Commission on the Information Strategy for the Euro.—The A refers to the A series of documents. The number 4 refers to the fourth European Parliament session. The European Parliament is currently in its sixth session which began in 2004. The number 485 is the number of the report and 98 refers to the year of the report.

¶63 European Parliament documents published before 1990 are available in print in serials variously named Session Documents, Working Documents, and

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44. See infra ¶69 for a description of RAPID.
Documents de Séance. Prior to 1973, reports were not generally available in English. For more detail on the different series of European Parliament documents, refer to the European Commission Delegation’s very useful guide, Accessing European Union Information.45

Parliamentary Questions

¶64 Members of the European Parliament regularly question the European Commission on EU policy. These questions and their responses are available electronically in various sources:

- European Parliament, Parliamentary Questions (http://www.europarl.eu.int/questions/default_en.htm) (all questions since 1999; written questions since 1994)
- LexisNexis—EURCOM; PARLQ database (since 1964)
- Westlaw—EU-QUESTIONS database (since 1992)
- Lawtel EU—Background Information (since 1987)
- CELEX—in Parliamentary Questions file (Sector 9)

¶65 Parliamentary questions also were published in the C Series of the Official Journal of the European Communities until 1999.

Economic and Social Committee Documents

¶66 Many official documents are available on the official Web site of the Economic and Social Committee (www.esc.eu.int). The legal researcher would be most interested in the ESC opinions, its Annual Report, and its monthly Bulletin. ESC opinions since 1990 are available on its Web site and in the C Series of the Official Journal.

Committee of the Regions Documents

¶67 Its official Web site (http://www.cor.eu.int) contains a searchable database of opinions and resolutions of the Committee of the Regions as well as press releases and the committee’s recent Activity Reports. COR opinions are also available in the C Series of the Official Journal.

Status of Legislation

¶68 To verify the status of proposed legislation or to learn more about the steps in the enactment of a particular legislative proposal, the following two databases are useful. PreLex (http://europa.eu.int/prelex/apcnet.cfm) is maintained by the European

Commission and collects the documents issued at each step of the legislative process. It is searchable by keyword, document number, and citation, and includes hypertext links to relevant documents. OEL, the Legislative Observatory database (http://wwwdb.europarl.eu.int/dors/oeil/en/default.htm) maintained by the European Parliament, provides a synopsis of legislative procedures taken in enacting legislation and is searchable by document number, title of document, and other means.

§69 RAPID (http://europa.eu.int/rapid/start/cgi/guesten.ksh), maintained by the European Commission, is a searchable database of press releases by various EU institutions. The press releases generally include Web links to official EU documents. Press releases often are the quickest and easiest way to learn of new developments in EU law.

National Implementing Legislation

§70 The enforcement of EU directives depends on enactment of national legislation to fulfill the purposes and objectives of a particular directive. To determine if the member state has enacted national legislation in response to EU legislation, the researcher has several aids.

§71 In both Westlaw and LexisNexis, there is a section at the end of each directive titled “Implementation” which lists the national laws enacted in response to that particular piece of legislation. Directives in the CELEX database also contain this section. The European Commission relies on self-reporting of enacted legislation by member states so the information on national legislation in the CELEX database is sometimes incomplete.

§72 LexisNexis also has a National Provisions Implementing Directives database (EURCOM; NATPRV) that contains summaries of citations to national legislation passed in response to EU laws. Coverage is from 1989 to present.

§73 Finally, Commercial Laws of Europe, a monthly journal published in London by Sweet & Maxwell, contains a list of important national legislation enacted in the countries of Western Europe, including legislation implementing EU directives and English translations of selected statutes.

Case Law

§74 The Court of Justice of the European Communities (commonly known as the European Court of Justice or ECJ) interprets and applies European Union law as found in the EU treaties and legislation.46 The founding treaties state that the court "shall ensure that in the interpretation and application of this Treaty the law is observed."47 The court sits in Luxembourg and its working language is French.

46. The European Court of Justice is separate and distinct from the European Court of Human Rights of the Council of Europe.
47. TREATY ESTABLISHING THE EUROPEAN COMMUNITY, art. 220, 2002 O.J. (C 325) 33, 122 (consolidated version).
case may be brought in any of the official languages of the EU and one language will be designated the language of the case (generally the language of the national court referring the case or that of a party to the case). About one-quarter of the court’s opinions are not immediately translated into English.

¶75 Typically, panels of three, five, or seven judges will hear a case, although occasionally the entire court will do so. U.S. legal researchers will be unfamiliar with an official judicial officer active at the European Court of Justice—the advocate-general. Advocates-general review the written documents submitted in a case and issue a written opinion advocating a legal position prior to the court issuing its own opinion. The eight advocates-general are appointed by common accord among the member states for six-year terms.

¶76 The ECJ has broad jurisdiction in EU matters and its decisions have the force of law in the member states. Decisions of the ECJ can override national legislation and decisions of national courts that are deemed contrary to the provisions of EU treaties and legislation.

¶77 The Court of First Instance, created in 1989 to relieve the caseload of the ECJ, originally heard cases dealing with competition law, dumping, subsidies, and staff grievances. However, the Treaty of Nice expanded the court’s jurisdiction. Decisions of the Court of First Instance are appealable to the European Court of Justice on points of law.

¶78 Generally two types of cases are filed before the European Court of Justice. The first involves a party filing a direct action that seeks relief under European Union law. A second occurs when a national court makes a reference for a preliminary ruling from the ECJ. The national court determines that a question of European Union law is relevant to the resolution of the case before it and submits the question of European Union law to the ECJ for resolution. The court’s preliminary ruling on the question submitted is binding on the national court.

¶79 National courts also frequently decide issues of European Union law without referring questions to the European Court of Justice. Although sources of case law of the member states are beyond the scope of this article, researchers should be aware that national court decisions are frequently relevant to points of EU law and should be consulted along with the case law of the European Court of Justice itself.

49. Id. at 249–51. The office of advocate-general is based on the office of comissaire du gouvernement of the Conseil d’Etat in France.
52. Protocol on the Statute of the Court of Justice, supra note 51, art. 56–57, 2001 O.J. (C80) at 64.
53. Hartley, supra note 25, at 63.
54. Id.
55. Id.
Official Publications

¶80 Commonly known as the European Court Reports or ECR, the Reports of Cases before the Court of Justice and the Court of First Instance is the official case reporter of these courts. The ECR is divided into three sections. Section I includes decisions from the European Court of Justice; section II includes decisions from the Court of First Instance. A third section, ECR-SC, began in 1994 and includes staff cases, employee grievances against a European Union institution or agency. Prior to 1990 when the Court of First Instance began its work, the ECR was not divided into numbered sections.

¶81 Publication of decisions in ECR is frequently delayed by eighteen months or longer because of the necessity of translating the decisions into all the official languages of the European Union. The ECR is analogous to United States Reports, the official case reporter of the Supreme Court of the United States.

¶82 U.S. legal researchers using the ECR will note that there are no concurring or dissenting opinions of the judges on the European Court of Justice.56 The court issues a judgment of the court to which all the judges agree. The opinion of the advocate general is published separately.57

¶83 The Proceedings of the Court of Justice and the Court of First Instance of the European Communities is a weekly publication containing summaries of judgments, opinions of the advocates-general, and listings of new cases to be brought before the court. It is also available on the ECJ Web site (http://curia.eu.int/en/actu/activites/index.htm).

¶84 The C Series of the Official Journal of the European Union publishes court orders and judgments and lists cases filed before the European Court of Justice.

Electronic Sources

¶85 Opinions of both the Court of Justice and the Court of First Instance are available in the following electronic databases:

- Curia, the European Court of Justice Web site (http://curia.eu.int), contains full-text decisions since 1997 and all decisions by case number from the court’s inception in 1953;
- LexisNexis, in EURCOM; ECJ database (since 1954);
- Westlaw, in EU-CS-ALL database (since 1954);
- CELEX contains judgments and orders since 1954, full-text opinions since 1987;
- Lawtel EU, Case Law database contains applications, judgments, and opinions full text since 1997, and also provides items prior to 1997 via a transcript service.

Print Sources

¶86 Following are several of the more prominent commercial publications of EU case law.

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56. Id. at 56.
57. Id
• **European Community Cases.** London: Sweet & Maxwell. This loose-leaf service publishes selected European Commission and European Court of Justice decisions, including opinions of advocates-general. Headnotes precede each case. This set includes a table of contents, a topical index, and a list of authorities cited. It is updated monthly. It also includes **EU Focus**, a newsletter on EU law and affairs.

• **Common Market Law Reports.** London: Sweet & Maxwell. This publication collects selected cases from both the European Court of Justice and the appellate courts of individual member nations that resolve questions of European Union law. This weekly publication includes a roundup of actions of the European Court of Justice.

• **C.M.L.R. Antitrust Reports.** London: Sweet & Maxwell. This reporter focuses on European Union documents dealing with mergers, acquisitions, and antitrust issues and includes a summary of European Commission actions, the status of cases before the European Commission and the European Court of Justice, and decisions of the European Court of Justice and the European Commission. Finding aids include a list of cases reported and a subject index.

### Official Reports on EU Activities

Researchers may find the following two regularly published reports and one Web site useful for an overview of EU policy.

• **Bulletin of the European Union.** Brussels: European Commission, Secretariat-General, 1994–. Formerly known as the **Bulletin of the European Communities** (1968–93), this monthly publication by the European Commission provides a summary of EU activities in selected policy areas. Issues since 1996 are available on Europa (http://curia.eu.int/en/content/aide/index.htm).


• University of Pittsburgh, Archive of European Integration (http://aei.pitt.edu/). While not an official publication per se, this archive contains the full text of historic documents dealing with European integration, including many official EU documents. The archive is searchable by subject, institutional author, year, and other criteria.
Journals and Periodicals

§88 There are numerous journals and periodicals that report on and analyze EU legal developments. This section highlights finding aids and a very selective list of journals that may be useful in EU legal research.

Indexes

§89 The following indexes can be used to identify periodical articles relating to EU issues and topics.

- *Index to Foreign Legal Periodicals*. Berkeley, Calif.: University of California Press. Print coverage from 1960 to present; electronic coverage since 1985. This index contains citations to articles in selected legal journals published abroad and U.S. law reviews focused on international law. The print version has subject, geographical, and author indexes.

- *Legal Resource Index* (also known as Legaltrac). Gale Group. On LexisNexis: LEXREF; LGLIND; on Westlaw: LRI; directly from the Gale Group: Legaltrac. Indexes legal journals from the United Kingdom, Canada, Australia, and New Zealand, but mainly focuses on U.S. journals since 1980. This database is the electronic companion to *Current Law Index*.


- *Lawtel EU, Articles Index*. London: Sweet & Maxwell. This fee-based database contains the full text of articles from several selected European law journals from January 1999.

- *ECLAS, European Commission Libraries Catalogue* (http://europa.eu.int/eclas/). This database of documents on European affairs includes the departmental collections of twenty directorates general. The catalog also includes Web resources and secondary sources that were previously cataloged in SCAD, a now defunct database of EU documents.

Selected Journals

§90 Numerous journals and magazines deal with EU law and affairs regularly. Following is a very selective list of these journals.

- *The Economist*. London: The Economist Newspaper. This British weekly newsmagazine usually includes two to three articles in each issue related to EU affairs.


• **EU Focus: Essential Developments in EU Law and Policy.** London: Sweet & Maxwell. This biweekly newsletter includes topical summaries of EU legal developments and is part of **European Community Cases** also published by Sweet & Maxwell.


• **Yearbook of European Law.** New York: Oxford University Press. Each annual contains selected articles on European legal topics and book reviews.


• **European Integration Current Contents** (http://www.jeanmonnetprogram.org/TOC/index.php). Published by the Academy of European Law of the European University Institute, this electronic journal contains tables of contents from selected international law journals.

• **Electronic Bulletin of European Documentation** (http://www.euro.ucl.ac.be/ebed/). This bimonthly Web-based publication provides links to selected full-text documents related to EU affairs. It is sponsored by the Institute of European Studies of the Université Catholique de Louvain in Belgium.

## Research Guides

§91 Following is a selective list of EU legal research guides available on the Web and in print.

• “Accessing European Union Information” (February 2004). In **Tools for Research on the EU** (www.eurunion.org/infores/resguide.htm). An excellent, comprehensive guide to European Union information sources, both legal and nonlegal, written by Barbara Sloan, retired head of the Public Inquiries Section of the European Commission Delegation in Washington, D.C.


• “European Union” (January 2003). Georgetown University, Edward Bennett Williams Law Library (http://www.ll.georgetown.edu/intl/guides/eu/).


**Recent Articles on EU Legal Research**

¶92 The following law review articles published since 1995 guide researchers in the use of EU legal materials.


**European Union Depository Libraries**

¶93 The European Union maintains depository libraries in the United States and throughout the world. Depository libraries receive a select group of official EU
publications at no charge and in exchange provide access to the public to these EU materials. A complete listing of EU depository libraries in the United States is available at the Web site of the Delegation of the European Commission in Washington, D.C. (http://www.eurunion.org/infores/library.htm).

¶94 The following law libraries in the United States are among the EU depository libraries: American University Law Library, Emory University Law Library, University of Georgia Law Library, Harvard University Law Library, University of Illinois Law Library, Chicago-Kent College of Law/Illinois Institute of Technology Library, University of Maine Law Library, University of Michigan Law Library, New York University Law Library, University of Puerto Rico Law Library, and the University of Texas Law Library.

Conclusion

¶95 With the admission of ten additional European nations in 2004, the European Union has become an even more prominent economic power in the world. Interest in EU law and policy will likely grow even at smaller law schools without extensive international law offerings and at law firms outside major metropolitan areas. This article was intended to aid infrequent users of EU materials in locating sources of EU law and EU official documents. It was not intended to be a comprehensive guide to EU law. Researchers requiring further information should consult the introductory texts and research guides described in this article for more detailed information on this growing supranational organization and its law and policies.