

4th Edition

John Tillotson • Nigel Foster

Text, Cases and Materials on

EUROPEAN UNION LAW



TEXT, CASES AND MATERIALS ON EUROPEAN UNION LAW

Fourth Edition

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Cavendish
Publishing
Limited

London • Sydney • Portland, Oregon

Fourth edition first published in Great Britain 2003 by
Cavendish Publishing Limited, The Glass House,
Wharton Street, London WC1X 9PX, United Kingdom
Telephone: + 44 (0)20 7278 8000 Facsimile: + 44 (0)20 7278 8080
Email: info@cavendishpublishing.com
Website: www.cavendishpublishing.com

Published in the United States by Cavendish Publishing
c/o International Specialized Book Services,
5824 NE Hassalo Street, Portland,
Oregon 97213-3644, USA

Published in Australia by Cavendish Publishing (Australia) Pty Ltd
45 Beach Street, Coogee, NSW 2034, Australia
Telephone: + 61 (2)9664 0909 Facsimile: +61 (2)9664 5420

© Tillotson, John and Foster, Nigel	2003
First edition	1993
Second edition	1996
Third edition	2000
Fourth edition	2003

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British Library Cataloguing in Publication Data
Tillotson, John
European Union law – 4th ed
1 Law – European Union countries
2 Law – European Union countries – cases
I Title II Foster, Nigel G
341.2'422

Library of Congress Cataloguing in Publication Data
Data available

ISBN 1-85941-777-9

1 3 5 7 9 1 0 8 6 4 2

Printed and bound in Great Britain

PREFACE

The overriding purpose of this text, cases and materials book is to provide students with a clear and manageable guide to the main constitutional, institutional, administrative and substantive features of European Community law within the framework of European Union law as a whole. The European Community has for over 10 years been but one 'pillar' of the European Union, albeit by far the most substantial one in legal terms. EC law is therefore part of EU law but, dating back to the formation of the Community in 1957, the most highly developed part. The EC Treaty remains the basis for those elements of the law of the Union which have the most significant impact in the Member States.

The importance of this subject is undeniable. It is a compulsory foundation subject for undergraduate students on qualifying law degrees. It is studied on other undergraduate and postgraduate courses for both lawyers and others, particularly in the fields of politics and business. It is a subject of a diverse and dynamic character embracing political, economic and social issues and aspirations of which we all – as individuals and lawyers – are a part.

In this country, we have played and continue to play a part in the rapid development of this new – 50 year old – legal system which, in turn, continues to flow back, permeate and change not only the operation of our political and legal institutions, but also the way we engage in business and other affairs, as, for example, employers, employees and consumers.

No book, no course (particularly one of a single semester nature) could hope to cover all aspects of this wide-ranging and dynamic subject. Although in this fourth edition we have endeavoured to cover all the significant developments of the last three years, and both revised and widened the scope of the text, the treatment remains selective, whilst falling within the guidelines outlined by the Law Society and the Council for Legal Education in 1993.

The book falls into four overlapping parts: (1) The European Community and Union and Law in the Union; (2) The Nature and Effect of Community Law; (3) Aspects of Community Economic and Social Law; and (4) Remedies and the Enforcement of Community Law. Efforts have been made throughout to set the law in its political, economic and social context, particularly by the use of appropriate materials from a wide variety of sources, including the writings of specialist academic and other commentators. The subject is inevitably of an interdisciplinary nature.

Key provisions of the EC Treaty and the Treaty on European Union are reproduced together with discussion of the nature and effect of amendments since the original EEC Treaty was signed in Rome in 1957. Account is also taken of key Community legislative acts and policy making, particularly in the substantive fields of the free movement of goods, the free movement of persons, gender equality and competition policy. Decisions of the Court of Justice, the Court of First Instance and other courts are similarly dealt with, where necessary in some depth.

Since publication of the third edition in 2000, major decisions have been made at the highest level, the full effects of which will not emerge until at least the next Intergovernmental Conference in 2004. The Nice Treaty has prepared the way and the Union is due to increase its membership to 25 Member States. A new Convention on the Future of Europe is presently preparing a draft Constitutional Treaty and considering the status of the EU Charter of Fundamental Rights.

Important decisions by the Community Courts have developed the concept of Union citizenship, clarified questions concerning collective dominance and brought closer together the rules on Community and State liability. A CFI decision has brought to a head criticism of the restricted rights of private parties when challenging Community legislation. Modernising reform of competition law and policy continues.

Our thanks go again to Law Librarian Sue Bate and to Lilian Bloodworth, who has done another magnificent job in processing the book. We are finally happy to acknowledge a continuing working relationship *par excellence* with Jeremy Stein and all at Cavendish Publishing.

*John Tillotson
Nigel Foster
June 2003*

NOTE ON TREATY RENUMBERING

The Treaty of Amsterdam (ToA), which came into force in 1999, 'simplified' and renumbered the Articles of the Treaty on European Union (TEU) and the European Community Treaty (EC). This 'simplification' is 'anything but' for the student and the teacher of the subject.

Prior to the change, the case law and legislation obviously made reference to the 'old' pre-1999 numbers, and it is only in a gradual and piecemeal way that 'new' numbers are applicable in practice. The only solution is to use both numbers, that is, pre- and post-ToA. Depending on the context, you will therefore find, for example: Article 25 (formerly 12) EC or Article 173(2) (now 230(4)) EC or Article D (now 4) TEU. Where this method would complicate the text too much, you will find, for example, 25 (12) or 173(2) (230(4)) or even, where this should not confuse, the old or new number on its own.

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