

简明法学案例丛书(影印版)

briefcase on EUROPEAN COMMUNITY LAW

欧盟法简明案例

(第二版)

(Second Edition)

苏珊·沃尔夫

Susan Wolf



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本书导读

欧洲共同体是欧洲联盟的前身,是欧洲经济共同体、欧洲煤钢共同体和欧洲原子能共同体的总称。根据 1992 年《马斯特里赫特条约》的规定,在欧洲共同体的基础上建立欧洲联盟。因此我们现在讲的欧盟法律制度就是欧共体的法律制度。本书英文直译为《欧共同体法简明案例》,考虑到上述变化,故译为《欧盟法简明案例》,特此说明。

我国早在 20 世纪 70 年代就已经同欧洲共同体建立了正式的关系,但学术界对欧盟法律制度的研究却一直不是很深入。由于欧盟的法律制度、运行机制和组织结构具有一定的超国家性,因此,对其深入了解和研究有助于我们思考和建立我国多法域的法律统一和协调制度。对我国实现统一大业后贯彻“一国两制”的精神具有现实的参考意义。

本书通过案例的方式介绍了欧盟法律的基础知识。读者可以将本书与同时出版的另一本介绍欧盟法律的书籍《欧盟法基础》结合起来阅读。这样,可以通过案例的介绍,从感性上理解相关的法律问题。

本书在介绍有关案例时,没有对具体案情进行详细的说明,而是将法律问题抽象出来,落脚点放在欧洲法院的判决结论上。这样便于读者把握案例的核心,理解法院判决的针对性,从而更好地理解欧盟法律制度。同时,为了读者能够理解不同的法律问题,在案例的编排上,作者进行了严谨和认真的审核,将有关案例一一分类,归属到不同的问题类别中去。全书语言简明,通俗易懂。在英语语言方面,没有使用多少晦涩难懂的词汇和语法。相信具备一定英语基础知识的读者不会产生理解上的困难。读者在阅读本书的过程中,如果对有关法律上的问题存在疑问,可以参考英汉对照的《欧盟法》一书(该书由袁发强翻译,武汉大学出版社 2003 年出版)。

关于欧共同体及欧盟是什么性质的组织这一问题曾存在不同观点。有的学者认为它是国际组织,其法律制度是国际法的一部分;有的学者认为它是“超国家组织”,其法律制度类似于国内法律制度。随着对该组织的深入了解,越来越多的学者认为欧共同体是一种有别于一般国际组织、自成一体的组织形式,其未来发展趋势尚不明朗。欧共体的法律制度也不同于一般国际法或国内法。读者在阅读此书后,可以对欧洲法院的裁决有更清晰的认识,从而形成自己的观点和认识。相信本书的内容对于学习法律、外经贸和国

际关系的师生以及从事涉外实务工作的同志有一定的帮助作用。

本书有关内容由武汉大学法学院博士生袁发强翻译,错漏之处望专家、读者指正。

译 者

2004 年 4 月

Preface

The most significant development since the publication of the first edition of *Briefcase on European Community Law* in 1996 is, without doubt, the entry into force of the Treaty of Amsterdam. The Treaty of Amsterdam makes a number of substantive amendments to the EC Treaty and the Treaty on European Union; however, the renumbering of the Treaty Articles is likely to be the thing which causes the most confusion for students of EC law. Clearly, the case law and secondary legislation which pre-dates the Treaty of Amsterdam renumbering will refer to the 'old' Treaty numbers, whereas future legislation and cases will refer to the new numbers. The approach taken in this second edition is to refer, in the first instance, to the new Treaty numbers, as students will almost certainly be taught EC law by reference to the Treaty as it now is. However, the old Treaty number has also been included in parenthesis (for example, Article 28 EC (ex 30)). The area likely to cause the greatest confusion is in relation to the free movement of goods, where Article 30 has been renumbered as Article 28, and Article 36 has been renumbered as Article 30! Students are advised to take care when dealing with these particular changes. The only exception to this approach is in relation to quotations which refer to the former Treaty number. In addition, this book also includes a Table of Equivalences (see p iv), which sets out the pre- and post-Amsterdam numbering of the main Treaty Articles referred to in this book.

In addition to the obvious changes brought about by the Treaty of Amsterdam, the new edition includes a number of new important cases, for example, in the area of sex discrimination and the freedom of establishment.

Sincere thanks are due to my colleagues, Tony Storey with whom I share the majority of my EC law teaching and Elizabeth Griffiths for help and advice. Thanks also to Cara Annett at Cavendish Publishing, for her support in the production of this second edition.

Susan Wolf
August 1999

Abbreviations 缩略词

AC—Appeal Cases	上诉案
ALL ER—All England Law Reports	全英格兰法律报告
CA—Court of Appeal	上诉法院
CFI—Court of First Instance	初审法院
Ch—Chancery Reports	大法官法庭报告
CMLR—Common Market Law Reports	共同市场法律报告
EAT—Employment Appeal Tribunal	劳动雇用争议上诉裁判庭
EC—European Community	欧共体
ECJ—European Court of Justice	欧洲法院
ECR—European Court Reports	欧洲法院报告
ECSC—European Coal and Steel Community	欧洲煤钢共同体
EEC—European Economic Community	欧洲经济共同体
EP—European Parliament	欧洲议会
EU—European Union	欧盟
Euratom—European Atomic Energy Community	欧洲原子能共同体
HL—House of Lords	上议院
NHS—National Health Service	全国健康服务计划
IRLR—Industrial Relations Law Reports	工业关系法律报告
SDA—Sex Discrimination Act	性别歧视法案
SEA—Single European Act	单一欧洲法案
TEU—Treaty on European Union	欧盟条约
WLR—Weekly Law Reports	法律周报

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