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SECOND EDITION

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PREFACE

I am very happy to have had the opportunity of producing this second edition of *European Union Law* at a time when fascinating and exciting new developments have just occurred in the life of the EU. Whilst I like the idea of keeping this work up to date by publishing a new edition every two years my position with this second edition was that I had no choice but to write it! The entry into force of the Treaty of Lisbon on 1 December 2009 made so many huge changes in EU law that without the presence of this new edition I would have had to beg my publishers to withdraw the first edition from the market.

One of the merely practical changes is that almost every one of the articles in the Treaty on European Union and the Treaty establishing the European Community has been renumbered. Of course, I should not leave out the fact that almost every one of them has also been amended, repealed or replaced!

The renumbering of Treaty articles raises the matter of how to present case law decided prior to 1 December 2009. In this respect I have, when commenting on cases and when appropriate, chosen to refer to the article numbers extant at the time of the judgment, and to place new article numbers within square brackets immediately afterwards. I have also, wherever possible, avoided using old numbering in the book but where this has been unavoidable the new number has been placed in square brackets immediately after the old. The renumbering of articles is, however, inconsequential in comparison with the substantial and profound changes in EU law which this book examines in detail. They required the inclusion of new chapters in this edition on “The protection of human rights in the EU”, “The Common Foreign and Security Policy” and on the “Values and objectives of the EU including the creation of an area of freedom, security and justice”.

I would like to express my sincere appreciation and gratitude to my editor, Fiona Kinnear, who has been her usual helpful, kind, tactful and professional self. It has indeed been a pleasure to work with her, Holly Davis and other members of Routledge’s personnel in the preparation of this edition.

Finally, my special thanks to someone who prefers not to be named but who has been my rock and my inspiration and who has spent hours assisting me with this book.

This book is up to date as at 1 May 2010.

Alina Kaczorowska

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Practice tackling essay-style questions on topics of EU Law that come up frequently in exams, and learn how to structure your answers and what to include with the suggested answers.

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PowerPoints of the diagrams contained within the text are ideal for use in lectures or to help summarise and understand complex or important topics.

Weblinks

Probe deeper by using the website links provided which have been specifically selected to help you find authoritative and reliable sources for further study.

Updates

Keep on track with the latest developments in EU Law with the regular text updates.

TABLES OF EQUIVALENCES⁽¹⁾

Treaty on European Union

Old numbering of the Treaty on European Union	New numbering of the Treaty on European Union
TITLE I—COMMON PROVISIONS	TITLE I—COMMON PROVISIONS
Article 1	Article 1
	Article 2
Article 2	Article 3
Article 3 (repealed) ⁽¹⁾	
	Article 4
	Article 5 ⁽²⁾
Article 4 (repealed) ⁽³⁾	
Article 5 (repealed) ⁽⁴⁾	
Article 6	Article 6
Article 7	Article 7
	Article 8

⁽¹⁾ Replaced, in substance, by Article 7 of the Treaty on the Functioning of the European Union (“TFEU”) and by Articles 13(1) and 21, paragraph 3, second subparagraph of the Treaty on European Union (“TEU”).

⁽²⁾ Replaces Article 5 of the Treaty establishing the European Community (“TEC”).

⁽³⁾ Replaced, in substance, by Article 15.

⁽⁴⁾ Replaced, in substance, by Article 13, paragraph 2.

⁽¹⁾ Tables of equivalences as referred to in Article 5 of the Treaty of Lisbon. The original centre column, which set out the intermediate numbering as used in that Treaty, has been omitted.

TABLES OF EQUIVALENCES

Old numbering of the Treaty on European Union	New numbering of the Treaty on European Union
TITLE II—PROVISIONS AMENDING THE TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY WITH A VIEW TO ESTABLISHING THE EUROPEAN COMMUNITY	TITLE II—PROVISIONS ON DEMOCRATIC PRINCIPLES
Article 8 (repealed) ⁽⁵⁾	Article 9
	Article 10 ⁽⁶⁾
	Article 11
	Article 12
TITLE III—PROVISIONS AMENDING THE TREATY ESTABLISHING THE EUROPEAN COAL AND STEEL COMMUNITY	TITLE III—PROVISIONS ON THE INSTITUTIONS
Article 9 (repealed) ⁽⁷⁾	Article 13
	Article 14 ⁽⁸⁾
	Article 15 ⁽⁹⁾
	Article 16 ⁽¹⁰⁾
	Article 17 ⁽¹¹⁾
	Article 18
	Article 19 ⁽¹²⁾

⁽⁵⁾ Article 8 TEU, which was in force until the entry into force of the Treaty of Lisbon (hereinafter ‘current’), amended the TEC. Those amendments are incorporated into the latter Treaty and Article 8 is repealed. Its number is used to insert a new provision.

⁽⁶⁾ Paragraph 4 replaces, in substance, the first subparagraph of Article 191 TEC.

⁽⁷⁾ The current Article 9 TEU amended the Treaty establishing the European Coal and Steel Community. This latter expired on 23 July 2002. Article 9 is repealed and the number thereof is used to insert another provision.

⁽⁸⁾ — Paragraphs 1 and 2 replace, in substance, Article 189 TEC;
— paragraphs 1 to 3 replace, in substance, paragraphs 1 to 3 of Article 190 TEC;
— paragraph 1 replaces, in substance, the first subparagraph of Article 192 TEC;
— paragraph 4 replaces, in substance, the first subparagraph of Article 197 TEC.

⁽⁹⁾ Replaces, in substance, Article 4.

⁽¹⁰⁾ — Paragraph 1 replaces, in substance, the first and second indents of Article 202 TEC;
— paragraphs 2 and 9 replace, in substance, Article 203 TEC;
— paragraphs 4 and 5 replace, in substance, paragraphs 2 and 4 of Article 205 TEC.

⁽¹¹⁾ — Paragraph 1 replaces, in substance, Article 211 TEC;
— paragraphs 3 and 7 replace, in substance, Article 214 TEC.
— paragraph 6 replaces, in substance, paragraphs 1, 3 and 4 of Article 217 TEC.

⁽¹²⁾ — Replaces, in substance, Article 220 TEC.
— the second subparagraph of paragraph 2 replaces, in substance, the first subparagraph of Article 221 TEC.

Old numbering of the Treaty on European Union	New numbering of the Treaty on European Union
TITLE IV—PROVISIONS AMENDING THE TREATY ESTABLISHING THE EUROPEAN ATOMIC ENERGY COMMUNITY	TITLE IV—PROVISIONS ON ENHANCED COOPERATION
Article 10 (repealed) ⁽¹³⁾ <i>Articles 27a to 27e (replaced)</i> <i>Articles 40 to 40b (replaced)</i> <i>Articles 43 to 45 (replaced)</i>	Article 20 ⁽¹⁴⁾
TITLE V—PROVISIONS ON A COMMON FOREIGN AND SECURITY POLICY	TITLE V—GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION AND SPECIFIC PROVISIONS ON THE COMMON FOREIGN AND SECURITY POLICY
	Chapter 1—General provisions on the Union's external action
	Article 21
	Article 22
	Chapter 2—Specific provisions on the common foreign and security policy
	Section 1—Common provisions
	Article 23
Article 11	Article 24
Article 12	Article 25
Article 13	Article 26
	Article 27
Article 14	Article 28
Article 15	Article 29
<i>Article 22 (moved)</i>	Article 30
<i>Article 23 (moved)</i>	Article 31
Article 16	Article 32
Article 17 (moved)	<i>Article 42</i>

⁽¹³⁾ The current Article 10 TEU amended the Treaty establishing the European Atomic Energy Community. Those amendments are incorporated into the Treaty of Lisbon. Article 10 is repealed and the number thereof is used to insert another provision.

⁽¹⁴⁾ Also replaces Articles 11 and 11a TEC.

TABLES OF EQUIVALENCES

Old numbering of the Treaty on European Union	New numbering of the Treaty on European Union
Article 18	Article 33
Article 19	Article 34
Article 20	Article 35
Article 21	Article 36
Article 22 (moved)	<i>Article 30</i>
Article 23 (moved)	<i>Article 31</i>
Article 24	Article 37
Article 25	Article 38
	Article 39
<i>Article 47 (moved)</i>	Article 40
Article 26 (repealed)	
Article 27 (repealed)	
Article 27a (repealed) ⁽¹⁵⁾	<i>Article 20</i>
Article 27b (replaced) ⁽¹⁵⁾	<i>Article 20</i>
Article 27c (replaced) ⁽¹⁵⁾	<i>Article 20</i>
Article 27d (replaced) ⁽¹⁵⁾	<i>Article 20</i>
Article 27e (replaced) ⁽¹⁵⁾	<i>Article 20</i>
Article 28	Article 41
	Section 2—Provisions on the common security and defence policy
<i>Article 17 (moved)</i>	Article 42
	Article 43
	Article 44
	Article 45
	Article 46
TITLE VI—PROVISIONS ON POLICE AND JUDICIAL COOPERATION IN CRIMINAL MATTERS (repealed) ⁽¹⁶⁾	

⁽¹⁵⁾ The current Articles 27a to 27e, on enhanced cooperation, are also replaced by Articles 326 to 334 TFEU.

⁽¹⁶⁾ The current provisions of Title VI of the TEU, on police and judicial cooperation in criminal matters, are replaced by the provisions of Chapters 1, 5 and 5 of Title IV of Part Three of the TFEU.

Old numbering of the Treaty on European Union	New numbering of the Treaty on European Union
Article 29 (replaced) ⁽¹⁷⁾	
Article 30 (replaced) ⁽¹⁸⁾	
Article 31 (replaced) ⁽¹⁹⁾	
Article 32 (replaced) ⁽²⁰⁾	
Article 33 (replaced) ⁽²¹⁾	
Article 34 (repealed)	
Article 35 (repealed)	
Article 36 (replaced) ⁽²²⁾	
Article 37 (repealed)	
Article 38 (repealed)	
Article 39 (repealed)	
Article 40 (replaced) ⁽²³⁾	<i>Article 20</i>
Article 40 A (replaced) ⁽²³⁾	<i>Article 20</i>
Article 40 B (replaced) ⁽²³⁾	<i>Article 20</i>
Article 41 (repealed)	
Article 42 (repealed)	
TITLE VII—PROVISIONS ON ENHANCED COOPERATION (replaced) ⁽²⁴⁾	<i>TITLE IV—PROVISIONS ON ENHANCED COOPERATION</i>
Article 43 (replaced) ⁽²⁴⁾	<i>Article 20</i>
Article 43 A (replaced) ⁽²⁴⁾	<i>Article 20</i>
Article 43 B (replaced) ⁽²⁴⁾	<i>Article 20</i>
Article 44 (replaced) ⁽²⁴⁾	<i>Article 20</i>
Article 44 A (replaced) ⁽²⁴⁾	<i>Article 20</i>
Article 45 (replaced) ⁽²⁴⁾	<i>Article 20</i>

⁽¹⁷⁾ Replaced by Article 67 TFEU.

⁽¹⁸⁾ Replaced by Articles 87 and 88 TFEU.

⁽¹⁹⁾ Replaced by Articles 82, 83 and 85 TFEU.

⁽²⁰⁾ Replaced by Article 89 TFEU.

⁽²¹⁾ Replaced by Article 72 TFEU.

⁽²²⁾ Replaced by Article 71 TFEU.

⁽²³⁾ The current Articles 40 to 40 B TEU, on enhanced cooperation, are also replaced by Articles 326 to 334 TFEU.

⁽²⁴⁾ The current Articles 43 to 45 and Title VII of the TEU, on enhanced cooperation, are also replaced by Articles 326 to 334 TFEU.

TABLES OF EQUIVALENCES

Old numbering of the Treaty on European Union	New numbering of the Treaty on European Union
TITLE VIII—FINAL PROVISIONS	TITLE VI—FINAL PROVISIONS
Article 46 (repealed)	
	Article 47
Article 47 (replaced)	<i>Article 40</i>
Article 48	Article 48
Article 49	Article 49
	Article 50
	Article 51
	Article 52
Article 50 (repealed)	
Article 51	Article 53
Article 52	Article 54
Article 53	Article 55

Treaty on the Functioning of the European Union

Old numbering of the Treaty establishing the European Community	New numbering of the Treaty on the Functioning of the European Union
PART ONE—PRINCIPLES	PART ONE—PRINCIPLES
Article 1 (repealed)	
	Article 1
Article 2 (repealed) ⁽²⁵⁾	
	Title 1—Categories and areas of union competence
	Article 2
	Article 3
	Article 4
	Article 5

⁽²⁵⁾ Replaced, in substance, by Article 3 TEU.

Old numbering of the Treaty establishing the European Community	New numbering of the Treaty on the Functioning of the European Union
	Article 6
	Title II—Provisions having general application
	Article 7
Article 3, paragraph 1 (repealed) ⁽²⁶⁾	
Article 3, paragraph 2	Article 8
Article 4 (moved)	<i>Article 119</i>
Article 5 (replaced) ⁽²⁷⁾	
	Article 9
	Article 10
Article 6	Article 11
<i>Article 153, paragraph 2 (moved)</i>	Article 12
	Article 13 ⁽²⁸⁾
Article 7 (repealed) ⁽²⁹⁾	
Article 8 (repealed) ⁽³⁰⁾	
Article 9 (repealed)	
Article 10 (repealed) ⁽³¹⁾	
Article 11 (replaced) ⁽³²⁾	<i>Articles 326 to 334</i>
Article 11a (replaced) ⁽³²⁾	<i>Articles 326 to 334</i>
Article 12 (repealed)	<i>Article 18</i>
Article 13 (moved)	<i>Article 19</i>
Article 14 (moved)	<i>Article 26</i>
Article 15 (moved)	<i>Article 27</i>
Article 16	Article 14
<i>Article 255 (moved)</i>	Article 15

⁽²⁶⁾ Replaced, in substance, by Articles 3 to 6 TFEU.

⁽²⁷⁾ Replaced, in substance, by Article 5 TEU.

⁽²⁸⁾ Insertion of the operative part of the protocol on protection and welfare of animals.

⁽²⁹⁾ Replaced, in substance, by Article 13 TEU.

⁽³⁰⁾ Replaced, in substance, by Article 13 TEU and Article 282, paragraph 1, TFEU.

⁽³¹⁾ Replaced, in substance, by Article 4, paragraph 3, TEU.

⁽³²⁾ Also replaced by Article 20 TEU.

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Old numbering of the Treaty establishing the European Community	New numbering of the Treaty on the Functioning of the European Union
<i>Article 286 (moved)</i>	Article 16
	Article 17
PART TWO—CITIZENSHIP OF THE UNION	PART TWO—NON-DISCRIMINATION AND CITIZENSHIP OF THE UNION
<i>Article 12 (moved)</i>	Article 18
<i>Article 13 (moved)</i>	Article 19
Article 17	Article 20
Article 18	Article 21
Article 19	Article 22
Article 20	Article 23
Article 21	Article 24
Article 22	Article 25
PART THREE—COMMUNITY POLICIES	PART THREE—POLICIES AND INTERNAL ACTIONS OF THE UNION
	Title I—The internal market
<i>Article 14 (moved)</i>	Article 26
<i>Article 15 (moved)</i>	Article 27
Title I—Free movement of goods	Title II—Free movement of goods
Article 23	Article 28
Article 24	Article 29
Chapter 1—The customs union	Chapter 1—The customs union
Article 25	Article 30
Article 26	Article 31
Article 27	Article 32
<i>Part Three, Title X, Customs cooperation (moved)</i>	Chapter 2—Customs cooperation
<i>Article 135 (moved)</i>	Article 33
Chapter 2—Prohibition of quantitative restrictions between Member States	Chapter 3—Prohibition of quantitative restrictions between Member States
Article 28	Article 34

Old numbering of the Treaty establishing the European Community	New numbering of the Treaty on the Functioning of the European Union
Article 29	Article 35
Article 30	Article 36
Article 31	Article 37
Title II—Agriculture	Title III—Agriculture and fisheries
Article 32	Article 38
Article 33	Article 39
Article 34	Article 40
Article 35	Article 41
Article 36	Article 42
Article 37	Article 43
Article 38	Article 44
Title III—Free movement of persons, services and capital	Title IV—Free movement of persons, services and capital
Chapter 1—Workers	Chapter 1—Workers
Article 39	Article 45
Article 40	Article 46
Article 41	Article 47
Article 42	Article 48
Chapter 2—Right of establishment	Chapter 2—Right of establishment
Article 43	Article 49
Article 44	Article 50
Article 45	Article 51
Article 46	Article 52
Article 47	Article 53
Article 48	Article 54
<i>Article 294 (moved)</i>	Article 55
Chapter 3—Services	Chapter 3—Services
Article 49	Article 56

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Old numbering of the Treaty establishing the European Community	New numbering of the Treaty on the Functioning of the European Union
Article 50	Article 57
Article 51	Article 58
Article 52	Article 59
Article 53	Article 60
Article 54	Article 61
Article 55	Article 62
Chapter 4—Capital and payments	Chapter 4—Capital and payments
Article 56	Article 63
Article 57	Article 64
Article 58	Article 65
Article 59	Article 66
Article 60 (moved)	Article 75
Title IV—Visas, asylum, immigration and other policies related to free movement of persons	Title V—Area of freedom, security and justice
	Chapter 1—General provisions
Article 61	Article 67 ⁽³³⁾
	Article 68
	Article 69
	Article 70
	Article 71 ⁽³⁴⁾
Article 64, paragraph 1 (replaced)	Article 72 ⁽³⁵⁾
	Article 73
Article 66 (replaced)	Article 74
Article 60 (moved)	Article 75
	Article 76

⁽³³⁾ Also replaces the current Article 29 TEU.
⁽³⁴⁾ Also replaces the current Article 36 TEU.
⁽³⁵⁾ Also replaces the current Article 33 TEU.

Old numbering of the Treaty establishing the European Community	New numbering of the Treaty on the Functioning of the European Union
	Chapter 2—Policies on border checks, asylum and immigration
Article 62	Article 77
Article 63, points 1 et 2, and Article 64, paragraph 2 ⁽³⁶⁾	Article 78
Article 63, points 3 and 4	Article 79
	Article 80
Article 64, paragraph 1 (replaced)	Article 72
	Chapter 3—Judicial cooperation in civil matters
Article 65	Article 81
Article 66 (replaced)	Article 74
Article 67 (replaced)	
Article 68 (replaced)	
Article 69 (replaced)	
	Chapter 4—Judicial cooperation in criminal matters
	Article 82 ⁽³⁷⁾
	Article 83 ⁽³⁷⁾
	Article 84
	Article 85 ⁽³⁷⁾
	Article 86
	Chapter 5—Police cooperation
	Article 87 ⁽³⁸⁾
	Article 88 ⁽³⁸⁾
	Article 89 ⁽³⁹⁾

⁽³⁶⁾ Points 1 and 2 of Article 63 EC are replaced by paragraph 1 and 2 of Article 78 TFEU, and paragraph 2 of Article 64 is replaced by paragraph 3 of Article 78 TFEU.

⁽³⁷⁾ Replaces the current Article 31 TEU.

⁽³⁸⁾ Replaces the current Article 30 TEU.

⁽³⁹⁾ Replaces the current Article 32 TEU.

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Old numbering of the Treaty establishing the European Community	New numbering of the Treaty on the Functioning of the European Union
Title V—Transport	Title VI—Transport
Article 70	Article 90
Article 71	Article 91
Article 72	Article 92
Article 73	Article 93
Article 74	Article 94
Article 75	Article 95
Article 76	Article 96
Article 77	Article 97
Article 78	Article 98
Article 79	Article 99
Article 80	Article 100
Title VI—Common rules on competition, taxation and approximation of laws	Title VII—Common rules on competition, taxation and approximation of laws
Chapter 1—Rules on competition	Chapter 1—Rules on competition
Section 1—Rules applying to undertakings	Section 1—Rules applying to undertakings
Article 81	Article 101
Article 82	Article 102
Article 83	Article 103
Article 84	Article 104
Article 85	Article 105
Article 86	Article 106
Section 2—Aids granted by States	Section 2—Aids granted by States
Article 87	Article 107
Article 88	Article 108
Article 89	Article 109
Chapter 2—Tax provisions	Chapter 2—Tax provisions