

An Introduction to the Law and Institutions of the European Communities

Third Edition

by **D. Lasok**

Q.C., Len Dr, LL.M, PhD, Dr Juris, LL.D,
of the Middle Temple, Barrister;
Professor of European Law and
Director of the Centre of European
Legal Studies in the University of Exeter

and

J. W. Bridge

LL.B, LL.M, PhD,
Professor of Public Law
in the University of Exeter

*Scire leges non hoc est verba earum tenere,
sed vim ac potestatem, Celsus, 1.3.17*

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Preface to the third edition

Ubi Societas Ibi Jus

This revised and enlarged edition takes into account the developments within the Community and the state of the literature on the subject. Thus Chapter 4 has been enlarged to reflect the expansion of General Principles of Community Law whilst Chapters 13 and 14 have been reduced in view of the publication of the *Law of the Economy in the European Communities* by the Authors in 1980. These two volumes should be regarded as both independent and complementary since each volume treats comprehensively a separate branch of the law and the two cover the whole area of the Communities and their law.

The present volume is devoted to the structure of the Institutions and the Principles of Community law with the necessary emphasis on the constitutional aspects and the relationship between Community, international and national law of the Member States. In this respect it follows the pattern of the previous editions.

It is intended for students of law and politics as well as practitioners interested in the fundamentals of the Community law as a system separate from, yet interwoven into the fabric of national law.

D.L.
J.W.B.
Exeter
May 1982

Preface to the first edition

Ubi Societas Ibi Jus

To understand the nature of the law one must understand the nature of the society from which it emanates and which it purports to govern.

We are used to the concepts of national and international law. The former is the law of a sovereign state and as such it governs the society comprised in a state that is a group of people living within a defined area under a government which has executive, legislative, judicial and administrative powers. International law, on the other hand, is the body of rules which governs relations between states and such international organisations as are set up and recognised by states as bearers of rights and duties. In exceptional situations individuals may be regarded as subjects of international law. As a body of rules international law is derived partly from custom and state practice, partly from the will of states expressed in treaties and partly generated by institutions (e.g. the United Nations Organisation) set up by states and based on a treaty.

The object of this book is to define and analyse a nascent body of law which can be described as the law of the European Community. It is neither a national nor an international system of law in the accepted sense of these terms but a *sui generis* system emanating from the will to create a European Community. It reflects, of course, the nature of this design. At this stage we can speak of the European Community only in general political terms as an organisation with limited, mainly economic objectives and a potential for development towards a federal organisation. In strictly juristic, institutional terms we have to speak of the European Communities, that is the European Coal and Steel Community, the European Atomic Energy Community and the European Economic Community and, therefore, a distinction between 'Community' and 'Communities' has to be borne in mind. The law of the European Community, as we understand it, comprises consequently elements of international and national law as well as the rules generated by

the Communities, of which the European Economic Community may be regarded as a cornerstone of future developments. This we shall endeavour to emphasise.

The genesis of this book lies in the authors' experience of teaching European Community Law in the University of Exeter. They wish to express their thanks to their students, both undergraduate and post-graduate, for the patience and forbearance with which they endured the authors' experimental first steps in this field. The authors claim to have written no more than an introduction to the complex system of Community law. In order to explain its working to the reader it was thought necessary to stress the institutional aspects of the Community and matters of principle at the expense of the details of the law of the economy which is still at a formative stage. It is hoped, however, that it is informative and provocative in that by setting out the rudiments it will make the reader aware of the unprecedented challenge facing Europe, the United Kingdom and the citizen, be he lawyer or layman. The aim throughout has been to approach the subject from the standpoint of the United Kingdom joining a continental Community which is already a going concern and this explains the emphasis placed on the political background of the Community and the civil law framework within which it functions. The authors owe a considerable debt to the numerous pioneer writers on the Communities and their law and pay them generous tribute.

This is a joint work. Chapters 1, 3, 4, 10, 11, 13 and 14 were drafted by D. Lasok; Chapters 5, 6, 7, 8, 9 and 12 were drafted by J. W. Bridge; Chapter 2 was drafted jointly. The work of each author has been subject to the comments and criticisms of the other and both authors are in agreement on and each accepts responsibility for the form and content of the whole book.

The authors' gratitude is due to all the members of the secretarial staff of the Faculty of Law of the University of Exeter who, with their accustomed cheerfulness and efficiency, undertook the typing of the manuscript; to the Publishers; and to their wives and families to whom this book is dedicated.

D.L.

J.W.B.

Exeter,

Michaelmas, 1972

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