

The *Core Text Series* takes the reader straight to the heart of the subject, providing focused and reliable guides for students of law at all levels. Written with authority by leading academics and renowned for their clarity, these invaluable texts provide a straightforward analysis of the subject and its challenges.

European Union Law provides an accessible introduction to the European institutions and offers thorough and wide-ranging coverage of the key substantive law topics to serve as a strong basis for further study of the subject.

Insightful analysis of the underlying themes and principles of EU law is delivered in a clear and direct style, accompanied by chapter summaries, contextual examples, critical questions, and expertly selected further reading suggestions to help guide you through the subject and support further research.

MARGOT HORSPOOL is Emeritus Professor of European and Comparative Law at the University of Surrey; Fellow in European Law of the British Institute of International and Comparative Law, London.

MATTHEW HUMPHREYS is Professor of Law and Head, School of Law, Royal Holloway, University of London; Professor at the University of Notre Dame, London.

MICHAEL WELLS-GRECO is Lecturer in Law PhD, Assistant Professor, University of Maastricht; Partner, Charles Russell Speechlys.

Cover image: jbdodane / Alamy Stock Photo



online resources

www.oup.com/uk/horspool_humphreys10e/

Visit the online resources for further information and updates on EU law.

OXFORD
UNIVERSITY PRESS

www.oup.com

ISBN 978-0-19-881885-4



9 780198 818854

OXFORD

EXTRA
BREXIT
RESOURCES
ONLINE

European Union Law

MARGOT HORSPOOL, MATTHEW HUMPHREYS
& MICHAEL WELLS-GRECO

10th edition

CORE TEXT SERIES

Table of contents

Table of abbreviations	xxii
Table of cases	xxiv
Table of European legislation	lxxviii
Table of other legislation	xciv
Table of equivalences	xcvi
Map of the European Union	cxviii

1 Introduction 1

FURTHER READING	11
-----------------	----

2 The constitutional base of the Union 12

The period up to the Single European Act 1986	13
The Single European Act 1986	14
The Treaty on European Union (the Maastricht Treaty) 1993	16
The Treaty of Amsterdam (signed June 1997, entered into force 1 May 1999)	16
The Nice Treaty (adopted December 2001, entered into force 1 February 2003)	17
The Treaty of Lisbon (signed December 2007, entered into force 1 December 2009)	19
Article 50 TEU	22
Structure of the Treaties	24
FURTHER READING	38
SELF-TEST QUESTIONS	39

3 The institutions of the Union 40

Introduction	40
The history of the institutions	42
The European Council	43
The Council	44
Decision-making procedure of the Council: voting procedures	50
The Luxembourg Accords and the 'Ioannina Compromise'	53
The Commission	55

The European Parliament	64
The Court of Justice of the European Union and the General Court	70
The Court of Auditors	71
The European Economic and Social Committee (EESC)	72
Committee of the Regions (COR)	72
The European Investment Bank	73
The European Central Bank	73
Brexit and the Procedure to Withdraw from the Union	73
FURTHER READING	75
SELF-TEST QUESTIONS	76
4 The European Courts: composition, functions, jurisdiction; preliminary rulings	77
The Court of Justice	77
The General Court	83
Rules of Procedure	84
Judicial activism	86
Preliminary rulings	86
Jurisdiction of national courts	89
Discretionary and mandatory references	91
When should a national court refer?	92
Should national courts always make a reference?	94
Interim measures	98
Effects of preliminary rulings	98
The future of preliminary rulings	99
The scope of references for preliminary rulings	100
FURTHER READING	103
SELF-TEST QUESTIONS	103
5 The Union legal system	105
Primary legislation	106
Public international law in EU Courts	114
Secondary Union legislation	117
Legislative procedures	123
Decision-making procedure of the Commission (comitology)	123
Legislative powers	130

FURTHER READING	135
SELF-TEST QUESTIONS	136
6 General principles of law and the Charter of Fundamental Rights	137
General principles—their role in the EU's legal order	137
Overarching principles of the Union legal order	143
Fundamental human rights in the Union	157
Principles of administrative justice and good governance	172
FURTHER READING	179
SELF-TEST QUESTIONS	180
7 Doctrines of European Union law: direct effect, supremacy, state liability for breach of Union law and other remedies	181
(I) Direct applicability and direct effect	181
Direct effect of Treaty Articles	182
Direct effect of international agreements binding upon the EU	184
Direct effect of regulations	186
Direct effect of directives	186
Horizontal and vertical direct effect	189
Other means of giving maximum effect to Union law	191
(II) Supremacy of Union law	194
The doctrine of supremacy	194
Union law in the United Kingdom	199
The supremacy doctrine in France	208
EU law in Germany	212
EU law in Italy	216
A sample of other Member States' issues with the supremacy doctrine	217
(III) State liability and other remedies in Union law	220
Introduction	221
The principle of effective remedies	223
The principle of equivalence	224
Procedure	225
The creation of a uniform Union remedy	229
FURTHER READING	241
SELF-TEST QUESTIONS	243

8	Public enforcement of Union law (Articles 258–260 TFEU); review of legality and damages (Articles 263, 265, 268, 277 and 340(2) TFEU)	245
	(I) Public enforcement of Union law	245
	Article 258 TFEU	246
	Consequences of the judicial phase: financial penalties under Article 260 TFEU	257
	Commission discretion	261
	The Article 259 TFEU procedure	263
	(II) Review of legality and damages	264
	Action for annulment: Article 263 TFEU	264
	Article 263 TFEU and Article 267 TFEU	281
	Actions for failure to act: Article 265 TFEU	283
	Contractual and tortious liability of the Union	285
	FURTHER READING	290
	SELF-TEST QUESTIONS	291
9	Free movement of goods (I): the abolition of customs duties and internal taxation	293
	Introduction	293
	The customs union	294
	Free movement of goods provisions in the TFEU	295
	Customs duties and common customs tariff	296
	Charges having equivalent effect to a customs duty	297
	Charges falling within the scope of internal taxation	302
	FURTHER READING	312
	SELF-TEST QUESTIONS	313
10	Free movement of goods (II): quantitative restrictions and measures having equivalent effect	314
	Prohibition of quantitative restrictions and measures having equivalent effect	314
	Grounds of derogation under Article 36 TFEU	321
	Confining <i>Dassonville</i> : developing the rule of reason	326
	Developing the list of mandatory requirements	328
	Principles of mutual recognition and equivalence	331
	Reaching the limits of Article 34 TFEU?	333

	<i>Keck</i> and certain selling arrangements	335
	Presentation requirements	339
	The conditions in <i>Keck</i> and the difficulties in finding a consistent rule	340
	The blurred distinction between Article 36 TFEU and ‘mandatory requirements’	344
	Article 35 TFEU	348
	Directive 2015/1535/EU on the provision of information in the field of technical standards and regulations and rules on Information Society services	350
	FURTHER READING	351
	SELF-TEST QUESTIONS	352
11	Free movement of services: the freedom to provide and receive services	353
	The service economy and the law on services	353
	Non-discrimination and the direct effect of Article 56 TFEU	356
	The meaning of services	357
	Remuneration	358
	Economic services and other activities	359
	Services and cross-border activity	360
	The freedom to provide a service	360
	The freedom to receive services	361
	Health care provision and the receipt of services	362
	Services that move, where the provider and recipient do not	363
	Limitations on services freedom	364
	Public interest grounds limiting the Article 56 TFEU freedom	365
	Proportionality and limitations on services	369
	Illegal services	370
	The focus on market access and the facilitation of services	374
	Services Directive	375
	FURTHER READING	377
	SELF-TEST QUESTIONS	378
12	Citizenship and free movement of persons: workers and establishment	379
	Historical development of free movement of persons and freedom of establishment	380

Free movement of workers	383
Freedom of establishment	402
Exceptions to the free movement of workers, establishment and services	413
Special cases of free movement	421
FURTHER READING	438
SELF-TEST QUESTIONS	439
13 Citizenship and free movement rights: beyond economic links	440
Introduction	440
Facets of citizenship	446
Political citizenship and European Citizens' Initiative	459
Problems with citizenship	461
FURTHER READING	465
SELF-TEST QUESTIONS	465
14 Competition law and policy	467
The aims of competition law	467
Overview of the Treaty Articles	468
Article 101 TFEU	471
Article 102 TFEU: abuse of a dominant position	497
Application and enforcement of EU competition law	510
Private enforcement of the competition provisions	513
Merger control	514
FURTHER READING	524
SELF-TEST QUESTIONS	525
15 Environmental law and policy	526
The framework for Union environmental law and policy	526
Environmental principles	535
European Union environmental law by sector	539
Trade in endangered species	546
Nature conservation	547

Environmental protection implementation and enforcement: access to environmental information and citizen participation in the environmental decision-making process	549
Environmental litigation	551
FURTHER READING	556
SELF-TEST QUESTIONS	557
16 Discrimination law: from sex discrimination in employment to a general equality principle	558
Introduction	558
Article 157 TFEU and Treaty changes relevant to sex equality	561
Does Article 157 TFEU have direct effect?	568
Temporal effect of Article 157 TFEU	569
Secondary legislation	569
Time limits and the secondary legislation	576
Burden of proof	577
Direct and indirect discrimination and justification	580
Discrimination on grounds of age, disability and sexual orientation: discrimination as a 'general principle'	590
FURTHER READING	595
SELF-TEST QUESTIONS	595
Index	597