

# European Union Legal Research: A Guide to Print and Electronic Sources

by  
L. Kurt Adamson\*

## I. OVERVIEW OF ELECTRONIC LEGAL RESEARCH

Legal practice today is a global activity. American lawyers need to find legal information efficiently, even when the information from jurisdictions far beyond the boundaries of their state or of the United States. Legal practice routinely involves international fields such as trade, business transactions, and taxation. The nations of Europe, especially those of the European Union ("EU"), are major trading partners of the United States and are the source of many legal transactions.<sup>1</sup> This guide identifies the print and electronic sources that are most useful for finding relevant legal information from the EU.

Computer technology and legal research have been intertwined for nearly 30 years. The reasons are simple. Law primarily employs language rather than graphical or pictorial images. Lawyers are avid readers and document users. As a result, when the law went electronic, it leaped directly to full-text database research. Lawyers bypassed, for the most part, the electronic citation and abstract database stage that many other professions pursued. From the very start, they wanted the advantages of digital searching as well as the text of the documents they found, not just a citation or an abstract.

Technology and legal research began their marriage with full-text research on LEXIS,<sup>2</sup> and within a short time later on Westlaw.<sup>3</sup> Full-text databases set the standard for technology-based legal research. As a result, legal databases nearly

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\* Mr. Adamson is the Associate Director for Collection Development at the Southern Methodist University Underwood Law Library. He also teaches courses and seminars on a wide range of legal-research topics.

1. U.S. Census Bureau, *Top Ten Countries with Which the U.S. Trades* (Dec. 2000), available at <http://www.census.gov/foreign-trade/top/dst/2000/12/balance.html> (last visited Mar. 21, 2001) (listing the UK, Germany, and France as three of the top ten U.S. trading partners for 2000).
2. *About LEXIS-NEXIS*, available at <http://www.lexis-nexis.com/lnc/about/company.html> (last visited Feb. 27, 2001) (presenting a brief outline of the history of LEXIS-NEXIS, which began in 1973).
3. William G. Harrington, *A Brief History of Computer-Assisted Legal Research*, 77 LAW LIBR. J. 543, 543-54 (1985) (discussing development of Westlaw).

always contain the full text of documents. In the U.S., LEXIS and Westlaw still dominate the legal-research field, but they are not the sole legal databases.<sup>4</sup>

The most recent technological competitors are information and services available through the Internet.<sup>5</sup> These sources offer access to both free and fee-based legal-information sources over the Internet. Anyone with experience using the Internet has seen the dramatic growth in the availability of legal information from government resources as well as from traditional commercial publishers of legal-information products.

Useful documents may be available through the Internet for virtually any type of legal research. For example, court decisions, statutes, administrative regulations and decisions, foreign law, treaties, journals, and commercial vendor services are just some of the accessible resources.<sup>6</sup> And the Internet makes available many articles in bar journals, legal newspapers, and law reviews.

But there are limitations to conducting research on the Internet. First, the accuracy of information obtained from the Internet requires special scrutiny. Government websites and commercial vendors usually provide accurate information. But other Internet sources may require more skepticism. Today, the evaluation of web sources should be a standard element of legal research until a given source establishes its reliability. Second, unlike LEXIS or Westlaw, most sources on the Internet provide neither extensive historical collections nor a searchable range of primary and secondary sources. Third, many websites have only rudimentary search capabilities — at least as compared to LEXIS and Westlaw. Finally, Internet sources are known for disappearing or changing their

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4. See generally, Cary Griffith, *Selecting the Right Tools for Your Firm*, 8 LAW OFFICE COMPUTING, Apr.-May 1998, at 55-58 (discussing, for various-sized firms, typical mixes of electronic resources for legal research, including Westlaw and LEXIS).
  5. Mark Voorhees, *Hottest Legal Tech Now Web-Based*, NAT'L L. J., Mar. 13, 2000, at B10.
  6. See, e.g., Findlaw, at <http://www.findlaw.com> (last visited Mar. 25, 2001) (providing an excellent starting point for legal research on the Internet, including collections of links to a wide range of U.S. and foreign law); LLRX.com, at <http://www.llrx.com> (last visited Mar. 21, 2001) (publishing updated articles that discuss research sources and collect highly useful web links in many areas of U.S. and foreign law); S.M.U. Underwood Law Library, at <http://www.law.smu.edu/library/lawlinks.htm> (last visited Mar. 21, 2001) (providing a general starting place on Internet research through collections of links); Cornell Law School's Legal Information Institute, at <http://www.law.cornell.edu/> (last visited Mar. 21, 2001); L. Kurt Adamson home page, at <http://www.smu.edu/~kadamson/index.htm> (last visited Mar. 21, 2001) (containing links to Texas primary sources).

web addresses, meaning that one may not find the web page that was used a year ago, or two months ago, or even two weeks ago.<sup>7</sup>

A further problem occurs when a site posts very current information — more current than any paper sources — but does not maintain a permanent archive. For example, the EU freely posts the current issues of its daily *Official Gazette*.<sup>8</sup> By mail, it may take significant time for a printed issue of the *Official Gazette* to reach a U.S. library. But now, a lawyer may simply connect to the EU website<sup>9</sup> and find today's issue. Since each issue is in PDF format, the text appears just as the printed version appears.

The problem, however, is that the site removes issues after about 60 business days. At that point, a lawyer needing to find or cite the *Official Gazette* will have to turn to a commercial source, use the unformatted documents from the web version of the *Directory of Community Legislation in Force*,<sup>10</sup> or use a printed paper copy of the *Official Journal*. As a result of these restrictions, there will be times when legal research requires using both the electronic source and the paper source to accurately complete a research task.

With this brief introduction, the balance of this article focuses on resources for researching law of the EU. This guide is not definitive, but it does identify the most useful print sources in a major law library plus the electronic information available through the Internet, including on LEXIS and Westlaw.

Sources most important to research on EU law are: (1) the treaties establishing the EU and its related organizations; (2) secondary legislation approved by the Council of the EU; (3) caselaw from the EU courts and the national courts of member states; and (4) national legislation of member states necessary to implement EU law or policy. This article provides a guide to basic publications and electronic sources that can find, update, and validate the sources most closely associated with the EU.

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7. See Eugene Volokh, *Law and Computers: Computer Media for the Legal Profession*, 94 MICH. L. REV. 2058, 2066 (1996) (summarizing many shortcomings of the Internet); Diana Botluk, *Strategies for Online Legal Research: Determining the Best Way to Get What You Want*, LLRX.com, at <http://www.llrx.com/features/strategy.htm> (last visited April 3, 2000) (noting advantages and disadvantages of LEXIS, Westlaw, and the Internet).
  8. *Official Journal of the European Communities*, available at <http://eur-op.er.int/general/en/a3.htm> (last visited Mar. 24, 2001).
  9. *Europa – The European Union On-Line*, at [http://europa.eu.int/ind\\_en.htm](http://europa.eu.int/ind_en.htm) (last visited Mar. 24, 2001).
  10. *Directory of Community Legislation in Force*, available at <http://europa.eu.int/eur-lex/en/lif> (last visited Apr. 8, 2001).

## II. BEGINNING EU RESEARCH: BACKGROUND AND SHORTCUTS

Efficient and reliable research requires knowledge of the relevant legal system, including the legal institutions, sources of law, and sources available for research. This section describes the major institutions of the EU, reference materials that provide quick help in finding European law, and resources for deciphering the abbreviations relevant to EU research.

### A. Major EU Institutions

1. Council of the European Union (formerly "Council of Ministers"). The Council is the major decision-making body of the EU and is comprised of ministry-level government officials from each member state.<sup>11</sup> The individual representatives for each country vary depending on the subject under discussion.<sup>12</sup> In reality, separate councils exist simultaneously for the various governmental subject areas.<sup>13</sup> The Council approves "legislation," including decisions, directives, regulations, recommendations, and opinions.<sup>14</sup>

2. European Parliament. The Parliament is comprised of elected representatives from all member nations. It is the forum for debate and now has co-decision powers with the Council, though the Council is not always bound by the Parliament's advice.<sup>15</sup> The Parliament participates in the drafting and revision of proposed legislation. It has the power to veto some legislative acts of the Council. Additionally, it approves the annual EU budget. The Parliament supervises the European Commission through regular review of reports from the Commission and through questions submitted by its representatives.<sup>16</sup>

3. European Commission. The Commission initiates community policy and proposes all draft legislation and regulations.<sup>17</sup> It is responsible for ensuring that member states have implemented legislation and regulations consistent with

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11. P.S.R.F. MATHIJSEN, A GUIDE TO EUROPEAN UNION LAW 87, 87-88 (7th ed. 1999).

12. *See id.*

13. *See id.*

14. *See* 1 DAMIAN CHALMERS, EUROPEAN UNION LAW: LAW AND EU GOVERNMENT 112-13 (1998).

15. *See generally id.* at 119-35.

16. *See id.*

17. *See generally* MATHIJSEN, *supra* note 11, at 108-22.

EU treaties.<sup>18</sup> The Commission publishes quasi-judicial documents in the form of Commission decisions.<sup>19</sup>

4. The European Council. The European Council, which meets twice a year, is composed of the heads of the governments of each member country.<sup>20</sup>

5. Court of Justice of the European Communities (ECJ). The ECJ has jurisdiction to review the validity of legislation in light of EU treaties, to review the validity of community law for an issue forwarded by the national court of a member state, and to hear suits for failure to fulfill obligations and failure to act properly.<sup>21</sup> It is not a court of appeal from national courts, except in terms of community law. This court also hears appeals from the Court of First Instance in cases within its jurisdiction.

6. Court of First Instance (CFI). The CFI has jurisdiction over administrative disputes within EU institutions and suits against the EU for annulment, failure to act, or damages brought by a natural or legal person.<sup>22</sup>

## B. Quick Sources of EU Legal Information

There are several helpful shortcuts in conducting EU legal research. The guide *Information Sources in Law*<sup>23</sup> contains chapters on EU sources and on domestic sources of information on European nations. Another helpful resource is *Legal Research and the Law of the European Communities*.<sup>24</sup> This guide provides a fast summary, but some of its comments on electronic databases are out-of-date. *Foreign Law: Current Sources of Codes and Basic Legislation in*

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18. See *id.* at 108-22.

19. *Id.* For the official text of the Commission powers, see TREATY ESTABLISHING THE EUROPEAN COMMUNITY, art. 211 (ex art. 155), Nov. 10, 1997, *O.J.* (C 340) 173, 266-67 (1997) (consolidated version) [hereinafter EC Treaty]. For web access to the Commission's subdivisions, entitled "Directorates-General," see [http://europa.eu.int/comm/dgs\\_en.htm](http://europa.eu.int/comm/dgs_en.htm) (providing links to Commission offices, directories, policies, speeches, laws, and other information).

20. 1 CHALMERS, *supra* note 14, at 113.

21. MATHIJSEN, *supra* note 11, at 127-28.

22. 1 CHALMERS, *supra* note 14, at 142.

23. INFORMATION SOURCES IN LAW (Jules Winterton & Elizabeth M. Moys eds., 2d ed. 1997).

24. LIZ CARPENTER & KATE HODGSON, LEGAL RESEARCH AND THE LAW OF THE EUROPEAN COMMUNITIES (1997).

*Jurisdictions of the World*<sup>25</sup> provides another good place to start research on a country's codes and legislation. This regularly updated looseleaf guide contains:

- (a) general essays on the legal history of each jurisdiction;
- (b) references to printed publications of codes, statutes, regulations, and judicial decisions in each country; and
- (c) a subject-arranged guide with citations to each jurisdiction's legislative authority and to English-language publications containing other relevant information.

Another good source is *Eurodicautom*.<sup>26</sup> This multilingual, web-based, translation dictionary from the European Commission is an interesting web tool for finding translations and definitions of terms or phrases, abbreviations, and acronyms used in EU activities. This dictionary covers all the official languages of the EU member states.

For lawyers who regularly research foreign law, the web journal *LLRX.com*<sup>27</sup> is an excellent resource. The links under *Resource Center* are especially helpful.<sup>28</sup> This biweekly electronic journal publishes new and updated guides on research in foreign jurisdictions and guides on international and multinational organizations. Some guides lead only to electronic sources, but others cite both paper and electronic means of access.

In February 2001, there were guides to the law of the UK, Canada, Australia, Germany, Italy, Belgium, France, the World Trade Organization, and more. In addition to jurisdictional research guides, there are topical guides such as international trade and copyright law.

*Germain's Transnational Law Research: A Guide for Attorneys*<sup>29</sup> provides yet another way to identify and discover sources for conducting legal research on a wide range of multinational legal topics, including references to EU law. The publication includes an annotated guide to finding law in 17 European national jurisdictions. It also lists printed publications and Internet addresses.

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25. THOMAS H. REYNOLDS & ARTURO A. FLORES, *FOREIGN LAW: CURRENT SOURCES OF CODES AND BASIC LEGISLATION IN JURISDICTIONS OF THE WORLD* (2001).

26. *Eurodicautom*, at <http://eurodic.ip.lu/cgi-bin/edicbin/EuroDicWWW.pl> (last visited Mar. 20, 2001).

27. *LLRX.com*, at <http://www.llrx.com> (last visited Mar. 20, 2001).

28. *LLRX.com Resource Center International & Foreign Law*, at <http://www.llrx.com/resources4.htm> (last visited Mar. 20, 2001).

29. CLAIRE M. GERMAIN, *GERMAIN'S TRANSNATIONAL LAW RESEARCH: A GUIDE FOR ATTORNEYS* (1991).

Further, each chapter suggests sources for further reading, listing articles and books with background information on the chapter's topic.

### C. Guides to Deciphering EU Abbreviations

Several resources help identify various EU abbreviations. One source is already familiar to U.S. lawyers — *The Bluebook: A Uniform System of Citation*.<sup>30</sup> This guide includes tables of abbreviations and in its blue pages, contains other helpful information. Tables 2<sup>31</sup> and 3<sup>32</sup> specifically address foreign jurisdictions and intergovernmental organizations.

Another excellent source on European abbreviations is the *Index to Legal Citations and Abbreviations*.<sup>33</sup> The following guides are also helpful in deciphering the meanings of unfamiliar abbreviations:

- *Bieber's Dictionary of Legal Citations: Reference Guide for Attorneys, Legal Secretaries, Paralegals and Law Students*;<sup>34</sup>
- *Bieber's Dictionary of Legal Abbreviations: Reference Guide for Attorneys, Legal Secretaries, Paralegals and Law Students*;<sup>35</sup>
- *Bieber's Dictionary of Legal Abbreviations Reversed: Terms and Titles to Abbreviations*;<sup>36</sup> and
- *Abkürzungsverzeichnis der Rechtssprache*.<sup>37</sup>

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30. THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (17th ed. 2000).

31. *Id.* at 245.

32. *Id.* at 297.

33. DONALD RAISTRIK, INDEX TO LEGAL CITATIONS AND ABBREVIATIONS (2d ed. 1993).

34. MARY MILES PRINCE, BIEBER'S DICTIONARY OF LEGAL CITATIONS: REFERENCE GUIDE FOR ATTORNEYS, LEGAL SECRETARIES, PARALEGALS AND LAW STUDENTS (5th ed. 1997).

35. MARY MILES PRINCE, BIEBER'S DICTIONARY OF LEGAL ABBREVIATIONS: REFERENCE GUIDE FOR ATTORNEYS, LEGAL SECRETARIES, PARALEGALS AND LAW STUDENTS (4th ed. 1993) (2001 edition forthcoming).

36. IGOR I. KANVASS, BIEBER'S DICTIONARY OF LEGAL ABBREVIATIONS REVERSED: TERMS AND TITLES TO ABBREVIATIONS (1994).

37. HILDEBERT KIRCHNER, ABKÜRZUNGSVERZEICHNIS DER RECHTSSPRACHE (1993).

International reference sources also provide helpful information for deciphering abbreviations from around the world. The *World Dictionary of Legal Abbreviations* covers French, German, and Spanish abbreviations for Europe and other jurisdictions. Another helpful source is the *Index to Foreign Legal Periodicals*.<sup>38</sup> The "Index of Periodicals by Short Form" in a recent volume provides a list of major legal periodicals arranged by their abbreviations.

Finally, some reference works contain the meanings of generally used abbreviations of all kinds. These sources include *Acronyms, Initialisms & Abbreviations Dictionary*,<sup>39</sup> *Abbreviations Dictionary*,<sup>40</sup> and *The Oxford Dictionary of Abbreviations*.<sup>41</sup>

### III. EU LEGISLATION

A simple form of EU research is finding individually cited documents from the EU. There are several classes of documents that are commonly cited. This section identifies both official and unofficial sources for the text of documents and several electronic means of searching for them.

#### A. Official Sources

The official source for text documents is the *Official Journal of the European Communities* ("O.J."). The O.J. has two series, L and C. The L series contains the text of adopted legislation, regulations, and decisions of the Commission. The C series contains treaties, consolidated treaty texts, proposed legislation, ECJ orders (not opinions), Commission documents, notices, and other official information. Not until 1973, when the UK became a member, did the EU start printing the O.J. in the English language. The electronic text of the O.J. is available in the portion of the EU website titled *EUR-Lex*.<sup>42</sup> It provides free access to the latest 60 or so issues in PDF format.<sup>43</sup>

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38. UNIV. OF CAL. PRESS FOR THE AM. ASS'N OF LAW LIBRARIES, *INDEX TO FOREIGN LEGAL PERIODICALS* (2000).

39. *ACRONYMS, INITIALISMS & ABBREVIATIONS DICTIONARY* (Mary Rose Bonk & Pamela Dear eds., 28th ed. 1997).

40. *ABBREVIATIONS DICTIONARY* (Dean A. Stahl et al. eds., 10th ed. 2001).

41. *OXFORD UNIV. PRESS, THE OXFORD DICTIONARY OF ABBREVIATIONS* (1992).

42. *Eur-Lex: Official Journal*, available at <http://europa.eu.int/eur-lex/en/oj/index.html> (last visited Apr. 8, 2001).

43. *See Eur-Lex: Directory of Community Legislation in Force*, available at <http://europa.eu.int/eur-lex/en/lif/> (last visited Apr. 8, 2001).



Generally, there are three methods that the researcher can use to find information in the *O.J.* — the methodological index, the alphabetical index, and the *Directory of Community Legislation in Force*.

The methodological index, an outline approach, is not recommended as a starting point. The alphabetical index is a more straightforward place to begin. This subject index leads the user back to the relevant parts of the methodological index. This approach is similar to using a West digest to find caselaw. The alphabetical index is comparable to the “Descriptive Word Index” of a West digest and leads the user to the topic and key number system of the main digest volumes. The methodological index then provides citations to the *O.J.* volumes.

The *Directory of Community Legislation in Force*<sup>44</sup> is the most useful tool for identifying the citations of documents found in the *O.J.* This print edition, which is published every six months, covers EU activities from 1952 forward. Legislation that is no longer in force is removed from the current publication. The *Directory of Community Legislation in Force* is also available on the Internet.<sup>45</sup> The web version, which is updated monthly, can be approached by the same topical-outline or subject-term method as the indexes to the *O.J.* Its advantage is that citations found within it are hyperlinked to full text. Conversely, its limitation is that while citations are found to the *O.J.*, the text files retrieved are limited to ASCII or HTML files and do not follow the format of the *O.J.* Therefore, accurate pinpoint citation may require the user to examine the printed official source.

On the *Directory's* web page is a button labeled “consolidated.”<sup>46</sup> Consolidation refers to the integration of Community legislation, including amendments and corrections, into single nonofficial documents.<sup>47</sup> The buttons lead to links or individual documents that contain consolidated legislation — that is, the full text of legislation as revised or amended.

Consolidated text can be matched to texts codified over time. These “consolidated” documents, however, may not be considered official by the EU. A researcher should examine any disclaimer notices, if applicable.

The EU provides a variety of additional research services. Commission documents (“COM docs”) contain the text of proposed legislation and are often referred to as “preparatory acts.” They are selectively published in the *O.J.* and may be available in microfiche. Further, selected preparatory acts or community

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44. EUR. CMTY., *DIRECTORY OF COMMUNITY LEGISLATION IN FORCE AND OTHER ACTS OF THE COMMUNITY INSTITUTIONS* (2000).

45. *Directory of Community Legislation in Force*, available at <http://europa.eu.int/eur-lex/en/lif/> (last visited Apr. 8, 2001).

46. *Id.*

47. *EUR-Lex: Consolidated Legislation – Index Page*, at <http://europa.eu.int/eur-lex/en/consleg/index1.html> (last visited Mar. 25, 2001).

preparatory acts are accessible on the web from 1994 forward.<sup>48</sup> Additionally, the Secretariat-General of the European Commission publishes the *Bulletin of the European Union*, formerly the *Bulletin of the European Commission* ten times each year.<sup>49</sup> The *Bulletin* publishes information on the activities of the EU. It may also provide citations to relevant documents published elsewhere.

The EU provides three other web-based search tools. One is the *SCADplus database*,<sup>50</sup> a valuable research tool for seeking EU legislation, documents, and secondary resource articles. Also, the EU's web home page<sup>51</sup> "news" link provides access to the text of recent press releases and a searchable database of older news releases in the RAPID database.<sup>52</sup> This database publishes synopses of recent court decisions.

Finally the Office of Official Publications ("EUR-OP")<sup>53</sup> is a starting point to find references for the EU's printed and electronic publications. Some links lead to publications on the website. The "search" button may retrieve relevant publications by this keyword system. Some links, however, may lead only to abstracts and to purchase information rather than to full text.

Information regarding legislation adopted by the European Parliament is readily available as well. Official documents come in three printed series — the official report of debates; the texts adopted by the Parliament; and the working papers. These printed series are supplemented by documents now available on the Internet.

The European Parliament's home page provides access to selected documents starting in 1994.<sup>54</sup> By starting at the web page, the researcher can view the opening screen of links to press releases, membership, committees, documents, and more. The researcher can then proceed to the "Plenary sessions" link for access to proceedings, reports, adopted texts, and related publications.

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48. *EUR-Lex: Legislation in Preparation*, available at <http://europa.eu.int/eur-lex/en/com/index1.html> (last visited Mar. 15, 2001).

49. *European Commission Bulletin of the European Union*, available at <http://europa.eu.int/abc/doc/off/bull/en/welcome.htm> (last visited Mar. 25, 2001).

50. *SCADplus Database*, at [http://europa.eu.int/scadplus/scad\\_en.htm](http://europa.eu.int/scadplus/scad_en.htm) (last visited Mar. 15, 2001).

51. *European Union Web Home Page*, at [http://europa.eu.int/index\\_en.htm](http://europa.eu.int/index_en.htm) (last visited Mar. 15, 2001).

52. *RAPID database*, at <http://europa.eu.int/rapid/start/cgi/guesten.ksh> (last visited Mar. 15, 2001).

53. *Office of Official Publications (EUR-OP)*, at <http://eur-op.eu.int/> (last visited Mar. 15, 2001).

54. *Europarl*, at [http://www.europarl.eu.int/home/default\\_en.htm](http://www.europarl.eu.int/home/default_en.htm) (last visited Mar. 15, 2001).

Three tips make searching the European Parliament web page more effective. First, read the “read me first” document at this screen before searching in the Parliamentary proceedings. Second, documents are coded with alphabetical labels. The parliamentary session documents classified “A” are reports whereas those classified “C” are documents from another institution. The numeral after the “A” or “C” indicates which Parliamentary session produced the document. For example, documents labeled “A5” or “C5” are from the fifth Parliamentary Session (1999-2004). Documents with the identifier “PE” are Parliamentary committee draft reports. Finally, the novice researcher or occasional user of the EU website may find the *Search Guide: How to Find Official European Union Documents on the Web* to be a very useful tool.<sup>55</sup> The *Guide* contains explanations and links to relevant web pages.

Opinions from the ECJ and CFI are also available on the Internet.<sup>56</sup> The ECJ’s home page has full text opinions beginning with cases decided in June 1997. The web page now provides opinions for both courts.

## B. Unofficial Sources

There are several ways to research European Union legal problems outside the official publications and websites. The CCH’s *European Union Law Reporter*<sup>57</sup> is a looseleaf service on commercial, labor, and tax law of the EU. The law of member states is contained in the associated CCH service document *Doing Business in Europe*. In addition, there are treatises, encyclopedias, and looseleaf services on virtually every aspect of EU law.

Electronic databases, including LEXIS and Westlaw, also provide information about EU legal issues. To use LEXIS, follow the menu to Legal (excluding U.S.), then to European Union, and finally to Legislation and Regulations. Examine the alternative files as well. The most current files seem to be the European Community Laws file. When using Westlaw, follow the menu to All Databases, then to International/Worldwide Materials, and finally to European Union.

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55. *Search Guide: How to Find Official European Union Documents on the Web*, at [http://www.europarl.eu.int/guide/search/docsearch\\_en.htm](http://www.europarl.eu.int/guide/search/docsearch_en.htm) (last visited Mar. 15, 2001).

56. *European Communities and Court of First Instance*, at <http://europa.eu.int/cj/en/> (last visited Mar. 15, 2001).

57. CCH NEW LAW, EUROPEAN UNION LAW REPORTER (2000).

#### IV. COMMUNITY TREATIES

Researching an EU legal issue may require repeated access to certain basic documents because the fundamental law of the EU stems from three original treaties. These treaties established the European Coal and Steel Community ("ESCS"),<sup>58</sup> the European Economic Community<sup>59</sup> (often referred to as the "Treaty of Rome"), and the European Atomic Energy Community.<sup>60</sup> Amending treaties include the Single European Act,<sup>61</sup> the Treaty on European Union<sup>62</sup> (often referred to as the "Maastricht Treaty"), and most recently the Treaty of Amsterdam.<sup>63</sup> The revised texts of treaties are published in the *O.J.* as "consolidated versions" (in which the text reflects the original treaty as amended by various later treaties).

##### A. Finding Treaty Texts

The *O.J.* contains printed versions of the Treaty on European Union and the Treaty of Amsterdam. The *O.J.*'s "C" series publishes both original and consolidated versions of the treaties. The periodical *International Legal Materials*<sup>64</sup> publishes selected, significant treaties including some of the treaties in connection with the EU. Several books, looseleaf services, and electronic sources print all or portions of the texts. One example is a 1978 publication, *Treaties Establishing the European Communities; Treaties Amending These*

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58. TREATY INSTITUTING THE EUROPEAN COAL AND STEEL COMMUNITY, Apr. 18, 1951, 261 U.N.T.S. 140 (a treaty not originally published in English, but now available in translation).

59. TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY, Mar. 25, 1957, 298 U.N.T.S. 11.

60. TREATY ESTABLISHING THE EUROPEAN ATOMIC ENERGY COMMUNITY, Mar. 25, 1957, 298 U.N.T.S. 167.

61. Single European Act, Feb. 17, 28, 1986, 25 I.L.M. 506.

62. TREATY ON EUROPEAN UNION, Feb. 7, 1992, *O.J.* (C 191) 1 (1992), also available at 31 I.L.M. 247.

63. TREATY OF AMSTERDAM AMENDING THE TREATY ON EUROPEAN UNION, THE TREATIES ESTABLISHING THE EUROPEAN COMMUNITIES, AND CERTAIN RELATED ACTS, Oct. 2, 1997, *O.J.* (C 340) 1 (1997) [hereinafter TREATY OF AMSTERDAM].

64. *ASIL International Legal Materials*, available at <http://www.asil.org/International.htm> (last visited Mar. 25, 2001).

*Treaties; Documents Concerning Accession.*<sup>65</sup> Another is *The Treaty of Rome Consolidated and the Treaty of Maastricht*.<sup>66</sup> The compilation entitled *Community Laws*<sup>67</sup> contains reprints of treaties, as amended, and other selected EU legislation. The authors periodically update the text with new editions.

*International Organization and Integration: Annotated Basic Documents and Descriptive Directory of International Organizations and Arrangements*<sup>68</sup> is a multiple-volume set that is a useful compilation of original treaty texts for the EU and other entities. The work includes accession instruments through 1980. This set will soon be supplemented with more recent treaties.

Finally, the CCH's *European Union Law Reporter*<sup>69</sup> is a looseleaf service that contains the text of the EC Treaty.

Attorneys can also access treaty texts electronically. To use LEXIS on the web, go to the menu, then to legal (excluding U.S.), then to European Union, then to Treaties and International Agreements, and finally to Other Treaties Created by the EU. The file has basic treaties, amending and supplementing treaties, accession instruments, and other treaties created by the EU. A researcher can use Westlaw on the web similarly by finding International/World materials, then choosing European Union, then Treaties and International Agreements, and finally EC Treaties file. This database contains all the basic treaties, amending and supplementing treaties, and accession instruments, as well as successive enlargement treaties, including a consolidated version of the EC Treaty.

## **B. Finding Treaty Amendments, Accession Instruments, and Case Interpretation**

After finding a particular treaty, the researcher may need to search for later revisions and interpretations. LEXIS and Westlaw are the best choices, but several other sources for finding such information are available. As always, it

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65. *Treaties Establishing the European Communities, Treaties Amending These Treaties, and Documents Concerning the Accession*, OFFICE FOR OFFICIAL PUBLICATIONS OF THE EUROPEAN COMMUNITIES (1978).

66. *THE TREATY OF ROME CONSOLIDATED AND THE TREATY OF MAASTRICHT* (Neville March Hunnings & Joe MacDonald Hill eds., 1992).

67. *COMMUNITY LAWS* (Bernard Rudden & Derrick Wyatt eds., 6th ed. 1996).

68. *INTERNATIONAL ORGANIZATION AND INTEGRATION: ANNOTATED BASIC DOCUMENTS AND DESCRIPTIVE DIRECTORY OF INTERNATIONAL ORGANIZATIONS AND ARRANGEMENTS* II.A. (P.J.G. Kapteyn et al. eds., 1982).

69. CCH NEW LAW, EUROPEAN UNION LAW REPORTER (2000).

is important to check the dates of coverage for both online and printed sources. The *O.J.* publishes consolidated or amended versions of treaties.<sup>70</sup>

Several online sources are helpful in updating treaties. The researcher can perform a keyword search on Westlaw using the EU-TREATIES or EU-LEG databases to check a treaty's current status. Similarly, the researcher can perform a keyword search on LEXIS using the European Communities Law file or the EUR-Lex database on the web. The *O.J.* materials at this site are in PDF format. Links from the web version of the Directory on Legislation in force access unformatted text of earlier secondary legislation.<sup>71</sup>

## V. SECONDARY LEGISLATION

EU secondary legislation consists of directives, decisions, regulations, opinions, and recommendations authorized by one or more of the basic treaties.<sup>72</sup> The titles of these various forms of secondary legislation can be confusing. For example, an ECSC decision is actually called a "regulation." A useful summary of these forms of legislation and related treaties is available in Thomas's and Cope's *How to Use a Law Library*<sup>73</sup> as well as in *Legal Research and the Law of the European Communities*.<sup>74</sup>

Different types of secondary legislation have different impacts on member countries. Directives bind all member states, but each country must pass implementing legislation to enact the directives. Although directives set the EU's policy or legal goals, the means and methods of implementation are left to each member state.<sup>75</sup> Regulations, on the other hand, are more like what would be referred to in the U.S. as "statutes." These regulations bind all member states without any further action.<sup>76</sup> Decisions are directed at particular parties

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70. *Eur-Lex: Official Journal*, available at <http://europa.eu.int/eur-lex/en/oj/index.html> (last visited Mar. 25, 2001).

71. See *supra* text accompanying note 10.

72. See, e.g., EC TREATY, art. 249 (ex art. 189), Nov. 10, 1997, *O.J.* (C 340) 173, 278 (explaining that art. 249 is also known as ex. art 189). This source is the consolidated version of the EC Treaty. The Amsterdam Treaty changed the numbering scheme of the EC Treaty. This article uses the European method of citing the current article numbers and the former article numbers (ex art.) as a clear means of referring to provisions of the consolidated treaty.

73. CATHERINE COPE & PHILIP A. THOMAS, *HOW TO USE A LAW LIBRARY* 11-3 (3d ed. 1996).

74. CARPENTER & HODGSON, *supra* note 24.

75. EC TREATY, arts. 249 (ex art. 189) and 254 (ex art. 191), Nov. 10, 1997, *O.J.* (C340) 173, 278, 281.

76. *Id.*

and do not have a general effect.<sup>77</sup> Recommendations and opinions have no binding force on member states.<sup>78</sup> To be valid, all secondary legislation must be consistent with the terms of the relevant treaties.

### A. Sources of Text

The researcher can access secondary legislative text in the *O.J.*,<sup>79</sup> the EU-LEG and EU-ALL databases in Westlaw, the European Communities Law file in LEXIS, and the *EUR-Lex* database on the web.<sup>80</sup> The service *Commercial Laws of Europe* publishes, in English-language text, each member state's legislation implementing the EC Treaty.<sup>81</sup> But the service is limited to commercial subjects.

Secondary legislative text is also available in the CCH's *European Union Law Reporter*.<sup>82</sup> This looseleaf service contains digests of the relevant secondary legislation with citations to the *O.J.* It is arranged by subject and also includes a finding list by numerical identifier.

The *Encyclopedia of European Community Law – Part C* reprints the text of directives, decisions, regulations, opinions, and recommendations.<sup>83</sup> The tables in Volume 1 of Part C are especially helpful. Unfortunately, this publication's internal organization competes with the *I.R.S. Manual* in user frustration. Another source is CCH's *European Community Cases*.<sup>84</sup> The service provides the text of selected Commission decisions. The cumulative table of opinions and commission decisions reported (1989-99) are in the current looseleaf binder, along with the current year's indexes. There is also a very limited annual subject index.

Finally, the series *Common Market Law Reports – Antitrust Reports* provides selected Commission decisions.<sup>85</sup> In using this resource, the researcher

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77. *Id.*

78. *Id.*

79. *Eur-Lex: Official Journal*, available at <http://europa.eu.int/eur-lex/en/oj/index.html> (last visited Apr. 8, 2001).

80. *Eur.lex-European Union law*, available at <http://europa.eu.int/eur-lex/en/index.html> (last visited Apr. 11, 2001).

81. See generally *Commercial Laws of Europe*, at <http://www.sweetandmaxwell.co.uk/journal/cleuro/index.cfm> (last visited Mar. 26, 2001).

82. CCH NEW LAW, EUROPEAN UNION LAW REPORTER (2000).

83. ENCYCLOPEDIA OF EUROPEAN COMMUNITY LAW (K. R. Simmonds ed., 2000).

84. CCH NEW LAW, EUROPEAN COMMUNITY CASES (1999).

85. C.M.L.R. ANTITRUST REPORTS (E. Solic ed., 2001).

should always search the annual indexes and the current issues. This series of the C.M.L.R. is always cited as Volume 5 of each year. For example, the 1999 volume would be cited as 5 C.M.L.R. 47 (1999).

## B. Updating Secondary Legislation

1. Directory of Community Legislation in Force ("Directory"). The *Directory*<sup>86</sup> is used to identify the location of text in the *O.J.* and to find the citations to amending legislation. Covering the period from 1952 to the present, the *Directory* is published in print form every six months. Each set contains two volumes. The Analytical Register, Volume 1, contains the substantive list of legislation with citations to amending legislation. This volume is arranged in a topical outline, making access more efficient if the researcher first uses Volume 2, which is the chronological and numerical index. The *Directory* should be used in the following order:

- (1) Find the numerical identifier for the secondary legislation.

*Example:* Commission Directive 93/13/EEC.

- (2) Begin with Volume 2 of the *Directory*, while noting the revision date on the cover of the *Directory*.
- (3) Translate the numerical identifier into a Celex number using the directions on the first page of Volume 2 of the *Directory*.

*Example:* Directive 93/13/EEC is 31993L0013 [part 3 of the Celex database, published in 1993, class "L" for directive, and number 13 for that year].

- (4) Find the Celex version of the document number in the table in Volume 2. (If there is no entry in the table, then the legislation is no longer in force. Examine earlier editions of the *Directory* to find information.)
- (5) Note the page number cited in the table of Volume 2 cross-references the precise page number in Volume 1 of the *Directory* where the document's history information is found.
- (6) Go to Volume 1, find the page reference from Volume 2, and find the entry for the document on that page.

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86. EUR. CMTY., *supra* note 44.



To find very recent changes not covered by the latest *Directory*, use the web version or do a search with a date restriction using LEXIS or Westlaw.

The web version of the *Directory* is much easier to use. This version is updated monthly and is, therefore, more current than the paper version. In addition to the topical access method, there is an alphabetical index on the web version. This web version contains hyperlinks to the text of many documents, including the featured link to "consolidated" legislation.

There are also unofficial sources for updating secondary legislation. One is Butterworth's *European Communities Legislation: Current Status*.<sup>87</sup> This is a citator-type service for EU legislation. It is also possible to search appropriate legislation files or databases in LEXIS or Westlaw, using the legislation's normal numerical document number. The keyword search should relate the type of legislation to the numerical number. For example, a search for directive /2 "93/13/eec" will be more helpful than one merely for "93/13/eec". This strategy avoids retrieving irrelevant material such as regulations or other documents with the same numerical identifiers.

Westlaw has excellent notes on implementing legislation of member states. The researcher can also conduct an indirect search through CCH's *European Union Law Reporter* and its current-matters volume titled "European Union Update." This looseleaf service may also have notes on implementing legislation.<sup>88</sup>

### C. Case Annotations to Secondary Legislation

Case annotations to legislation are available from several sources. The CCH's *European Union Law Reporter* incorporates case references into its discussion of relevant secondary legislation.<sup>89</sup> The researcher can also access case annotations through the European Union caselaw files and databases on LEXIS and Westlaw to manually search for cases citing particular secondary legislation. One strategy is to search using the numerical identifier and the legislation type for the secondary legislation and related keywords.

Other aids in finding cases interpreting EU legislation include the annual tables in the *Common Market Law Reports*<sup>90</sup> and in the *C.M.L.R.—Antitrust Reports*<sup>91</sup> (including the tables in the current monthly issues). But unless research is limited to relatively recent legislation, this is not an efficient search

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87. EUROPEAN COMMUNITIES LEGISLATION: CURRENT STATUS 1952-1999 (Butterworths European Information Services 2000).

88. See CCH NEW LAW, EUROPEAN UNION LAW REPORTER (2000).

89. See *id.*

90. COMMON MARKET LAW REPORTS (P. Lasok & N. Paines eds., 2000).

91. C.M.L.R. ANTITRUST REPORTS (E. Solic ed., 2001).

method. The annual legislation finding list in CCH's *European Community Cases* in the current binder and in the bound volumes is also a helpful source.<sup>92</sup>

#### D. Finding Legislative History of EU Legislation

Although there is no formal legislative history similar to that printed for U.S. federal legislation, knowledge of the legislative process helps in identifying documents relevant to understanding a particular piece of secondary legislation. The EU follows several procedures in adopting legislation, but four dominate: the consultation procedure, the cooperation procedure,<sup>93</sup> the co-decision procedure,<sup>94</sup> and the assent procedure.<sup>95</sup> The process followed depends on the subject matter and the terms of the relevant treaty.

Each procedure involves a number of steps by the Commission, the Council, the European Parliament, and occasionally another institution. The relevant documents may include a Commission proposal and other documents or revisions to the initial proposal. Documents may also include reports, drafts, proposed revisions, and adopted texts by the European Parliament. Common positions and the final adopted legislation by the Council may also be found.

The consultation procedure includes submission of the Commission proposal (*O.J.* "C" series); consultation with the Parliament; and adoption by the Council of the final text (*O.J.* "L" series).<sup>96</sup>

During the cooperation procedure, a Commission proposal is sent to both the Council and the Parliament; the Council then consults the Parliament for its opinion and adopts a "common position." The Parliament then has three months to approve or fail to act on the common position. If the Parliament accepts the proposal, the Council adopts the final legislation. Even if the Parliament rejects the proposal, the Council may still approve the final legislation if it does so by a unanimous vote of the Council.<sup>97</sup>

The co-decision procedure resembles the cooperation procedure, but if the Parliament rejects the common position by an absolute majority, the Council convenes a Conciliation Committee to develop a joint text. Both the Parliament and the Council must approve the new joint text.<sup>98</sup>

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92. CCH NEW LAW, EUROPEAN COMMUNITY CASES (1999).

93. See EC TREATY, *supra* note 76, art. 252 (ex art. 189c), Nov. 10, 1997, *O.J.* (C 340) 280.

94. See *id.* at 279.

95. See *id.*

96. 1 CHALMERS, *supra* note 14, at 165-68.

97. *Id.* at 168-72.

98. *Id.* at 172-80.

Finally, the assent procedure has very limited applicability. Under this procedure, a proposal for legislation is made by any of the three bodies. At that point, the Council adopts a common position. If the EP gives assent, the Council adopts the final text. But if the EP does not give its assent, the legislation fails.<sup>99</sup>

To search for documents that are helpful in understanding the legislative history, the best strategy is to start with the *Directory*, especially the web version, if possible.<sup>100</sup> This document identifies all amending legislation and provides *O.J.* citations from the initial adoption forward. This research may require examining later revisions as well as the original adoption, depending on the source of the text under investigation. The web version may provide a link to an unformatted version of the documents. The *O.J.* prints the proposed drafts from the Commission ("C" series), the final version by the Council ("L" series), and possibly reports and other documents from either source or from the European Parliament. It is also necessary to check the text of the final legislation in the *O.J.* "L" Series and each later document for citations to proposals, revisions, and reports in connection with the legislation. This may provide the best single source for tracking references to relevant documents.

The researcher who wants to make the best possible use of the information should take several steps during the research process. First, the preamble to the final text found in the "L" Series of the *O.J.* will provide background and the Council's explanation or rationale for the adopted legislation. Next, the notes at the end of the final legislation often contain citations to the proposing document and revisions, Parliament documents, Parliament opinions, common positions drafted by the Council, and other EU institution document references. The European Parliament's website<sup>101</sup> (1994–date) is another good source for plenary proceeding, committee reports, Parliament proposed amendments, and adopted texts. Finally, a faster alternative is to search the Westlaw EU-ALL database or the LEXIS European Communities Law file for all relevant documents.

Two strategies may enhance one's success in researching primary legislative history sources. First, keyword searches should use the terms or phrases in the title of the final document. This heading is often consistent across the legislative process. Second, if the legislation follows either the cooperation procedure or the co-decision procedure, identifiers are added to relevant documents: "SYN nnn" (cooperation procedure) and "COD nnn" (co-decision procedure), where "nnn" is a number.<sup>102</sup> Search for these numbers on any

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99. *Id.* at 181-82.

100. *Directory of Community Legislation in Force*, available at <http://europa.eu.int/eur-lex/en/lif/> (last visited Apr. 8, 2001).

101. *European Parliament Web Server*, at <http://www.europarl.eu.int/> (last visited Mar. 27, 2001).

102. For example, "SYN 285" is the identification number attached to documents for Council Directive 93/13.

document found, including the Commission proposal. These methods can provide a very fast online search strategy to find most, if not all, relevant documents.

Several secondary sources may discuss EU legislative histories. Searching the SCADplus database<sup>103</sup> on the EU website for documents, notices, and articles may assist in interpreting secondary legislation. The periodicals covered include many U.S. law reviews. Other secondary sources — including treatises, periodicals, and newspapers — can be found by searching law-library online catalogs, by consulting standard periodical indexes, and by conducting electronic web searches with one of the major search engines.<sup>104</sup>

## VI. CASELAW

### A. Sources of Text of Opinions

There are many methods of researching EU caselaw. Probably the place to begin is *European Court Reports*,<sup>105</sup> the official publication of opinions. Early volumes have titles in French. The reporter added the opinions of the Court of First Instance when that court began publishing decisions.

The latest addition to the series is the *European Court Reports – Reports of European Community Staff Cases*<sup>106</sup> (“ECR-SC”), which began publication in 1994. The ECJ’s home page has the full text opinions beginning in June 1997.<sup>107</sup> This database includes cases from both the Court of Justice and the Court of First Instance.

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103. SCADplus Database, at [http://europa.eu.int/scadplus/scad\\_en.htm](http://europa.eu.int/scadplus/scad_en.htm) (last visited Mar. 15, 2001).

104. See, e.g., *Google.com*, at <http://www.google.com> (last visited Mar. 27, 2001); *FindLaw*, at <http://www.findlaw.com> (last visited Mar. 25, 2001); *Lycos Advanced Search*, at <http://lycospro.lycos.com/>; see also Walters S. Mossberg, *Google is Smart, Fast, Honest and May Be the Best Sleuth on the Web*, WALL ST. J., Mar. 1, 2001, at B1, available at 2001 WL-WSJ 2855764 (discussing interesting recent comments on the quality of the Google search engine).

105. EUROPEAN CASE REPORTS (Court of Justice of the European Communities eds., 2000).

106. REPORTS OF EUROPEAN COMMUNITY STAFF CASES: ECR-SC/COURT OF FIRST INSTANCE (Court of Justice of the European Communities eds., 2000).

107. *European Communities and Court of First Instance*, at <http://europa.eu.int/cj/en/> (last visited Mar. 15, 2001).

The *Common Market Law Reports*<sup>108</sup> and *C.M.L.R.—Antitrust Reports*<sup>109</sup> also publish ECJ and CFI decisions, plus opinions from member states' national courts. Some opinions are full text while others are only summaries. These publications contain English translations of the opinions and, according to *The Bluebook*, they are the preferred alternate citation sources.<sup>110</sup>

The CCH's *European Community Cases*<sup>111</sup> service continues the transfer binders of the CCH's *Common Market Law Reporter: Cases* and reprints selected court cases and quasi-judicial Commission decisions.

The best research strategy is to use one of the web-based databases. When using LEXIS on the web, select the European Court of Justice Cases file. When using Westlaw on the web, select the EU-CS, CML-RPTS, or EU-RPTS-ALL database. For each particular research issue, examine the scope notes for each of these databases. Also, opinion synopses are available in the RAPID database at the EU web site.<sup>112</sup>

Finally, other electronic search methods may be helpful, including Findlaw<sup>113</sup> and the foreign law links provided on the Underwood Law Library's home page.<sup>114</sup>

## B. "Shepardizing" EU Caselaw

Several approaches are available for shepardizing EU caselaw. One method is to use *Butterworth's EC Case Citator*.<sup>115</sup> A more efficient strategy, though, is to perform a keyword search in LEXIS or Westlaw using the party names or case number to find subsequent treatment of an ECJ or CFI court decision. A less efficient method is to use a table of cases cited, commission decisions cited in the annual volumes, and the current binder of CCH's

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108. COMMON MARKET LAW REPORTS, *supra* note 90.

109. C.M.L.R.—ANTITRUST REPORTS, *supra* note 91.

110. THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION, R.21.5.2(b), at 165 (17th ed. 2000).

111. CCH NEW LAW, EUROPEAN COMMUNITY CASES (1999).

112. RAPID database, at <http://europa.eu.int/rapid/start/cgi/guesten.ksh> (last visited Mar. 15, 2001).

113. Findlaw, at <http://www.findlaw.com>. (last visited Mar. 25, 2001).

114. SMU Underwood Law Library, at [http://www.law.smu.edu/library/int-law.htm#foreign law](http://www.law.smu.edu/library/int-law.htm#foreign%20law) (last visited Apr. 11, 2001).

115. BUTTERWORTHS EC CASE CITATOR & SERVICE (Stuart Isaacs ed., 2001).

*European Community Cases*.<sup>116</sup> These tables, however, are not cumulative beyond a single year.

## VII. CONCLUSION

As the global economy expands and legal systems interconnect, lawyers must have the ability to research international law so that they can better serve their clients. Conducting such research on EU law is sometimes complicated, partly because of the myriad sources and methods available in this area. While few firm libraries contain print versions of EU documents, extensive electronic sources — many available on the Internet — permit lawyers to efficiently locate this crucial information.

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116. CCH NEW LAW, EUROPEAN COMMUNITY CASES (1999).