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European Union Materials

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## I. Introduction & Overview

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The *Fordham International Law Journal* has long prided itself on being at the forefront of US legal scholarship on the European Community ("EC") or, as it is now called, the European Union ("EU"). For this reason, it is important to understand why the citation format for EC and EU materials used by the *Journal* is different from that used by the *Bluebook*, and why following this manual is important to ensure accuracy.

### A. WHAT IS THE EUROPEAN UNION?

The EU is a unique political structure, currently composed of twenty-seven nations, a complex supranational organization that has federal aspects analogous to the US. The countries that make up the EU ("Member States") remain independent sovereign nations, but they have ceded a part of their sovereignty in order to achieve a common market and other goals, as well as a global influence that none of them could have on their own (e.g., within the World Trade Organization).

This concept may seem fairly abstract, but in practical terms, it means that citizens of EU countries essentially no longer have barriers to living, working, studying, or retiring in other European countries. In the EU, citizens can travel across national borders without showing a passport (except to or from the UK and Ireland), and in many Member States, can compare prices using a unified currency ("Euro"), and can study, work, or retire in any European country they choose. For many Europeans, the EU means more freedom, lower prices, and greater power on the international level, as Member States increasingly speak with one voice to the rest of the world.

The inability to classify the EU neatly into an existing political or legal framework makes it the subject of much legal analysis and, thus, many law journal articles. Moreover, other articles provide information on EU substantive law to American lawyers who engage in legal practice within or relating to the EU. Also, some articles provide valuable comparative analysis with parallel US rules and policies.

The EU has four important political institutions: the Commission, Council, European Council, and Parliament, each with distinct roles and powers. The Court of Justice, together with its accessory General Court (formerly the Court of First Instance) has produced an enormous body of case law. It is important to remember that Court doctrines hold that EU law, based on the treaties, is quite distinct from traditional public international law.

For these and other reasons, the citation of EU materials needs to be detailed and different from traditional citation. It is not enough that the reader may simply locate the document or source; it is essential that the reader and/or scholar know *exactly* which source is being cited and in what manner. Failure to properly cite invites mischaracterizations and inadvertent omissions that result in reduced accuracy and increased difficulty in finding reliable source material.

Thus, the *Fordham International Law Journal* adheres to a strict set of citation standards for EU materials that differs from normal citation guidelines in that it requires more detailed

information both in the original citation and in subsequent cites. Though more time consuming, this formulation ensures our readers have the most information readily available and can rely upon the accuracy of the citation.

## **B. A BRIEF HISTORY OF THE EU**

The historical roots of the European Union lie in the aftermath of World War II. The continent had witnessed one of the most destructive wars in recorded history, and had to also deal with the emerging superpowers of the United States and the Soviet Union. After WWII, France decided that the best way to keep the peace with Germany was to become economically linked, together with Italy and the Benelux nations. The 1953 European Coal and Steel Community ("ECSC") integrated the coal and steel industries of France and Germany in order to stabilize their relations. The success of the ECSC led the political leadership of the six initial Member States to enter into the Treaty of Rome on March 25, 1957 which launched in 1958 the European Economic Community ("EEC"). Subsequently, the Treaty of Maastricht created the European Union ("EU") as an over-arching structure in 1993, and modified substantially the EEC, renamed the European Community ("EC"). The Treaties of Amsterdam in 1999 and Nice in 2003 made important amendments. The Treaty of Lisbon, effective December 1, 2009, substantially amended the initial Maastricht Treaty on European Union and absorbed the EC into the European Union.

In the early years, the EEC mainly dealt with trade and the economy. In 1973 the process of enlargement began when the UK, Denmark, and Ireland joined the EEC. In the 1980s Greece, Portugal, and Spain all joined and were followed by Austria, Finland, and Sweden in 1995. In May 2004, ten new countries joined the European Union, with two others in 2007, thus bringing the number of Member States to twenty-seven. The addition of many Eastern European and Baltic countries has greatly expanded the geographic scope of the EU, as well as introducing many new official languages, currently numbering twenty-three. Further enlargement is still being planned. Entry negotiations began with Croatia and Turkey in 2005. The EU accepted an application for admission by the Republic of Macedonia in December 2005, although there is not yet a schedule for entry negotiations. In addition, the EU is looking at the possibility of the other Western Balkan countries joining in the future when they are sufficiently ready. These include Albania, Bosnia & Herzegovina, Montenegro, and Serbia.

Today, twenty-seven Member States and over 450 million people form the EU. The Union deals with a wide range of issues of direct importance for the everyday life of its citizens. The Union has not only essentially achieved the free movement of goods, persons, services, and capital within its borders, it has also adopted legislation and enforces its rules in a wide variety of fields: competition (anti-trust) law, employment law, companies (corporate) law, banking, securities, environmental protection, consumer protection, anti-discrimination rules, etc. Any of these may be the subject of an article.

This is, of course, an extremely abridged introduction to a very unique and very complex system. For more detailed information on the history, origins, and jargon of the EU, try some of the resources in Sections C and D below.

## C. EU INSTITUTIONS

Three political institutions of the EU participate in its legislative process. These institutions are the European Commission (“Commission”), the Council of the European Union (“Council”), and the European Parliament. The Commission is the central administrative structure of the EU and is involved in almost all of its fields of action. The Council is composed of ministers who represent the Member State governments. The Parliament is composed of members who are elected every five years by the people in each Member State. The European Economic and Social Committee and the Committee of the Regions are advisory bodies which provide opinions in the legislative process.

In addition to these institutions, there are others with well defined roles. The European Council, composed of the prime ministers of the Member States (plus the President of France), must be carefully differentiated from the Council of the European Union. The European Council’s role is to provide political leadership and guidance on policies. Other bodies of importance are the European Central Bank, the European Court of Auditors, and the European Investment Bank.

Articles on EU law customarily reference applicable provisions of one or another of the treaties, as well as citing and describing judgments of the Court of Justice or the General Court. Articles may also deal with specific legislation or administrative decisions of the Commission. Thus, the *ILJ* is most often concerned with the proper citation form of these materials.

The homepages of the EU institutions are an excellent source for information about the institution, as well as documents and materials prepared by the institution.

- **European Commission:** [http://europa.eu.int/comm/index\\_en.htm](http://europa.eu.int/comm/index_en.htm)
- **European Commission Delegation to the U.S.:** <http://www.eurunion.org>
- **Council of the European Union:** <http://ue.eu.int>
- **European Parliament:** <http://www.europarl.eu.int/>
- **European Economic and Social Committee:** <http://www.esc.eu.int/pages/en/home.htm>
- **Committee of the Regions:** <http://www.cor.europa.eu/pages/HomeTemplate.aspx>
- **European Court of Auditors:** [http://eca.europa.eu/portal/page/portal/eca\\_main\\_pages/splash\\_page](http://eca.europa.eu/portal/page/portal/eca_main_pages/splash_page)
- **European Central Bank:** <http://www.ecb.eu/home>
- **European Ombudsman:** <http://www.ombudsman.europa.eu/home/en/default.htm>

## D. SELECTED RESOURCES FOR EU RESEARCH

- ⇒ **GEORGE BERMAN ET AL., CASES AND MATERIALS ON EUROPEAN UNION LAW** (2d. ed., 2002) (Book) (in the ILJ office) (3d. ed. 2010 available in electronic form)  
*Comprehensive treatise on the law, history, and structure of the European Union, co-authored by ILJ faculty advisor Professor Roger Goebel.*

- ⇒ **Europa** (website)  
<http://europa.eu>  
*The "Gateway to the European Union," this site has information about the EU as well as links to other websites containing treaties, case law, and various secondary legislation.*
- ⇒ **Eur-Lex** (website)  
[eur-lex.europa.eu/en/index.htm](http://eur-lex.europa.eu/en/index.htm)  
*PDFs of the Official Journal of the European Union ("O.J."), founding treaties, and case law.*
- ⇒ **Curia** (website)  
<http://www.curia.europa.eu>  
*Official page of the European Court of Justice ("ECJ") and the General Court, contains case law and helpful information*
- ⇒ **Fordham Law Library, European Union Legal Research Guide** (print guide)  
<http://lawlib1.lawnet.fordham.edu/research/eu.pdf>
- ⇒ **NYU Law Library, European Union Research** (website)  
<http://www.law.nyu.edu/library/research/researchguides/europeanunion/index.htm>
- ⇒ **Georgetown Law Library, European Union Research Guide** (website)  
<http://www.ll.georgetown.edu/guides/EuropeanUnion.cfm>
- ⇒ **The European Union, A Guide for Americans** (website)  
<http://www.eurunion.org/infores/euguide/euguide.htm>



## II. Where to Find EU Documents

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Documents of the EU can be obtained through numerous sources. The main official sources are **Europa**, the general website of the EU, **Eur-Lex**, the document portal for EU law and the **Official Journal**. The Official Journal of the European Communities (“O.J.”) is divided into five parts. The Legislation or L series contains the regulations, directives, decisions and other binding acts adopted by the Commission and Council. The Communication or C series contains the non-binding decisions and resolutions of the institutions of the European Union. These include communication and notices of the Commission, Minutes of the European Parliament, opinions of the European Economic and Social Committee, the Committee of the Regions, and the Council Common Positions. The C series is further sub-divided into CA series and CE series. The latter reproduces major Commission proposals, as of July 1999. The Supplement-S series carries notices of invitation to tender and public works and supply contracts. Annex-Debates section of the Official Journal has been discontinued since May 1999.

The *ILJ* citation format requires information only available in official EU sources. Unless noted in the more detailed sections below, documents can be found in the Official Journal. All O.J. sources published after 1998 are available online. Below are locations to find specific O.J. sources:

Print:

- Official Journal of the European Communities. Information and Notices [microform]. (from 1973) Fordham Law Library Microform Cabinet 32
- Official Journal of the European Communities. Legislation [microform] (from 1973) Fordham Law Library Microform cabinet 32
- Official Journal of the European Communities. Special ed. (Fordham Law Library STACKS 1952-1972, 1974) KJE908 Spec. Ed.
- Official Journal of the European Communities: Debates of the European Parliament (Fordham Law Library STACKS 1985-1999) KJE908 Annex

Online:

- Europa: <http://europa.eu>
- Eur-Lex: <http://eur-lex.europa.eu/en/index.htm>

### III. Treaties

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#### A. OVERVIEW OF EU TREATIES

One of the most unique aspects of the EU (and one of the most frustrating) is that it is founded upon and modified by multilateral treaties, rather than by a single constitutional document. Though the Treaty of Lisbon substantially amended and renumbered the provisions of the existing treaties, authors will continue for some time to cite the prior treaty articles. It will therefore often be desirable to cite provisions both in the Treaty of Lisbon and in prior treaties.

The power, structure, and fields of action of the EU all derive from the basic treaties establishing them, and many pieces frequently cite these foundational treaties. Citations to treaties should therefore be to the Official Journal of the European Union ("O.J."). Exceptionally, the initial European Economic Community Treaty is cited to the United Nations Treaty Series ("U.N.T.S."). Use a full treaty citation only if the treaty is being cited for the first time. Once a treaty that is to be referred to in a citation has been cited previously, use *supra* to refer to it.

#### B. MAJOR EU TREATIES

Part of what makes the EU so difficult to understand is that it has been built in pieces, over time. What began as an effort to stabilize the war-ravaged steel industries of several European countries has been modified and expanded by so many treaties that a full understanding of the workings of the EU requires an extensive knowledge of law and history. Moreover, it is important to distinguish between the text of an amending treaty (e.g., Treaty of Nice), and the Consolidated Version provided by the Commission and Council after (or sometimes before) the ratification of the amending treaty.

In the early 2000s the EU sought to restructure by combining multiple prior treaties, and reforming the EU's institutional structure. At first the EU drafted a Constitutional Treaty, but when it became apparent that voters would not approve such a sweeping overhaul the political leadership drafted the Treaty of Lisbon. This treaty was signed in 2007 and went into force on December 1, 2009.

The Treaty of Lisbon simplifies the citation of EU law by putting all EU treaty provisions in two places: the Treaty on European Union post-Lisbon, and the Treaty on the Functioning of the European Union. For citation purposes there are two important rules:

1. If the author is citing any provision of either of the two Lisbon Treaties, the footnote citation may be accompanied by the citation to the corresponding provision (if it exists) in the prior treaty. This is optional, should be done only if it helps the reader, and a note must always be inserted to the author requesting his/her consent (to avoid errors). E.g., TFEU art. 36 (ex EC Treaty art. 30); TEU post-Lisbon art. 7 (ex TEU art. 7, as amended).
2. If the author is citing an article of a former treaty, as would be customary in discussing a Court judgment interpreting the article, the footnote citation should be

accompanied by the citation to the succeeding provision (if it exists) in either of the two Lisbon Treaties. The author's consent must be requested via a comment to the author. E.g., EC art. 10 (now TEU post-Lisbon art. 4(3)); EC Treaty art. 17 (now TFEU art. 20).

Note also that authors occasionally cite treaty Preambles (recitals or whereas clauses), as well as Protocols or Declarations annexed to specific treaties. Always cite to the appropriate treaty and provide the full name of the Protocol or Declaration. Do not abbreviate Preamble, Protocol, or Declaration.

### 1. Consolidated Versions of the Treaties

As explained above, periodically the existing treaty provisions are restructured into consolidated versions which are usually then the source of citations. The Treaty of Lisbon is accordingly currently presented in the Consolidated Version of the Treaty on European Union ("TEU"), the Consolidated Version of the Treaty on the Functioning of the European Union, and the Consolidated Version of the Treaty Establishing the European Community ("EC Treaty"). Although the TEU kept its original name, many substantive changes were made, and articles, sections, chapters, and titles have been renumbered. For the purpose of clarity refer to the prior version as "TEU pre-Lisbon" and the new version as "TEU post-Lisbon." The Lisbon Treaty on the Functioning of the European Union ("TFEU") has replaced the prior Consolidated Version of the Treaty Establishing the European Community ("EC Treaty"), but has many new provisions and modification of prior articles, and is renumbered.

Historical references to prior consolidations should be clearly indicated.

#### 1a. Treaty on European Union ("TEU post-Lisbon")

##### **General Citation Form:**

Consolidated Version of the Treaty on European Union art. [], 2010 O. J. C 83/01, at [] [hereinafter TEU post-Lisbon].

##### **Short Cite:**

TEU post-Lisbon, *supra* note [], art. [], 2010 O. J. C 83, at [].

##### **Subsequent Cite if to Different Article and Page Number:**

*Id.* art. [], at [].

##### **Subsequent Cite to the Same Article and Page Number:**

*Id.*

1b. Treaty on the Functioning of the European Union (“TFEU”)

**General Citation Form:**

Consolidated Version of the Treaty on the Functioning of the European Union art. [], 2008 O.J. C 115/47, at [] [hereinafter TFEU].

**Short Cite:**

TFEU, *supra* note [], art. [], 2008 O.J. C. 115, at [].

**Subsequent Cite to a Different Article and Page Number:**

*Id.* art. [], at [].

**Subsequent Cite to the Same Article and Page Number:**

*Id.*

The most recent pre-Lisbon consolidated versions as amended by the Treaty of Nice were published on December 29, 2006 and are cited:

1c. Treaty on European Union (“TEU pre-Lisbon”)

**General Citation Form:**

Consolidated Version of the Treaty on European Union art. [], 2006 O.J. C 321 E/5, at [] [hereinafter TEU pre-Lisbon].

**Short Cite:**

TEU pre-Lisbon, *supra* note [], art. [], 2006 O.J. C 321 E, at [].

**Subsequent Cite to a Different Article and Page Number:**

*Id.* art. [], at [].

**Subsequent Cite to the Same Article and Page Number:**

*Id.*

1d. Treaty Establishing the European Community (“EC Treaty”)

**General Citation Form:**

Consolidated Version of the Treaty Establishing the European Community art. [], 2006 O.J. C 321 E/37, at [] [hereinafter EC Treaty].

**Short Cite:**

EC Treaty, *supra* note [], art. [], 2006 O. J. C 321 E, at [].

**Subsequent Cite to a Different Article and Page Number:**

*Id.* art. [], at [].

**Subsequent Cite to the Same Article and Page Number:**

*Id.*

NOTE: These 2006 consolidations include all amendments made by the Treaty of Amsterdam, effective May 1, 1999, and the Treaty of Nice, effective February 1, 2003, but not the relatively secondary ones produced by the Treaty of Athens, which enabled the accession of the ten Central European states on May 1, 2004, nor those of the Treaty of Luxembourg, which enabled the accession of Bulgaria and Romania on January 1, 2007.

1e. **N.B. Parallel Citation System for Consolidated Versions of the Treaties**

Staff members may locate tables of equivalences (which clearly show the numerical changes from pre to post Lisbon consolidations) at 2008 O.J. C 115/1, at 361.

1f. **References to prior consolidations**

Consolidated treaties were also issued in 1992, 1997, and 2002, following respectively the treaties of Maastricht, Amsterdam, and Nice. Authors generally cite these earlier Consolidated treaties only to show an evolution in the language of treaty provisions.

**General Citation Form:**

Consolidated Version of the Treaty Establishing the European Community art. [], 2002 O. J. C 325/33, at [] [hereinafter EC Treaty 2002 Consolidated Version].

**Short Cite:**

EC Treaty 2002 Consolidated Version, *supra* note [], art. [], 2002 O. J. C 325, at [].

**Subsequent Cite to a Different Article and Page Number:**

*Id.* art. [], at [].

**Subsequent Cite to the Same Article and Page Number:**

*Id.*

## 2. Foundational or Constitutive Treaties

### 2a. Treaty of Maastricht's Treaty on European Union

The Treaty of Maastricht, signed on July 29, 1992 and effective November 1, 1993, has two parts: the initial Treaty on European Union and the European Community Treaty which replaced the initial European Economic Community Treaty (*infra*). Because many provisions of both treaties were innovative and substantially important (e.g., the provisions concerning the creation of the European Monetary Union and the Common Foreign and Security Policy), and remained in effect until the Treaty of Lisbon, citations to the original Maastricht Treaty often still occur. Note that the initial Maastricht Treaty text of the Treaty on European Union should not be short-cited as “TEU pre-Lisbon,” because this is used for the Consolidated Version of the TEU, *supra* l.c., which is the text as amended by the treaties of Amsterdam and Nice.

#### **General Citation Form:**

Treaty on European Union (Maastricht text), July 29, 1992, 1992 O. J. C 191/1 [hereinafter Maastricht TEU].

#### **Short Cite:**

Maastricht TEU, *supra* note 3, art. [], 1992 O. J. C 191/1, at [].

#### **Subsequent Cite:**

*Id.*

### 2b. Treaty Establishing the European Economic Community (“EEC Treaty”; popular name: “Treaty of Rome”)

Citations to the original EEC Treaty are generally for historical purposes to indicate the text of a provision that has later been modified.

#### **General Citation Form:**

Treaty Establishing the European Economic Community, Mar. 25, 1957, art. [], 298 U.N.T.S. 11, at [] [hereinafter EEC Treaty].

#### **Short Cite:**

EEC Treaty, *supra* note [], art. [], at [].

#### **Subsequent Cite to a Different Article and Page Number:**

*Id.* art. [], at [].

#### **Subsequent Cite to the Same Article and Page Number:**

*Id.*

2c. Treaty Establishing the European Atomic Energy Community (“Euratom”)

The Euratom Treaty has never attained great functional importance. Citations to the original Euratom Treaty will generally be for historical purposes and are rare.

**General Citation Form:**

Treaty Establishing the European Atomic Energy Community,  
Mar. 25, 1957, 298 U. N. T. S. 167 [hereinafter Euratom  
Treaty].

**Short Cite:**

Euratom Treaty, *supra* note [], art. [], at [].

**Subsequent Cite to a Different Article and Page Number:**

*Id.* art. [], at [].

**Subsequent Cite to the Same Article and Page Number:**

*Id.*

2d. Treaty Establishing the European Coal and Steel Community (“ECSC Treaty”)

Citations to the original ECSC Treaty will generally be for historical purposes and are rare. The ECSC Treaty elapsed at the end of its fifty year term in 2002.

**General Citation Form:**

Treaty Establishing the European Coal and Steel Community,  
Apr. 18, 1951, 261 U. N. T. S. 140 [hereinafter ECSC Treaty].

**Short Cite:**

ECSC Treaty, *supra* note [], art. [], at [].

**Subsequent Cite to a Different Article and Page Number:**

*Id.* art. [], at [].

**Subsequent Cite to the Same Article and Page Number:**

*Id.*

3. Treaties amending the Constitutive Treaties

The initial European Economic Community Treaty was significantly amended by the Single European Act, effective July 1, 1987, and essentially replaced by the Treaty of Maastricht’s European Community Treaty, effective November 1, 1993. Also, each time a new nation joined the EEC, an Accession Treaty provided for the necessary changes in institutional structure, but these accession treaties are rarely cited.

The Treaty of Maastricht's two treaties, the Treaty on European Union and the European Community Treaty, both effective November 1, 1993, were significantly amended by the Treaty of Amsterdam, effective May 1, 1999, and the Treaty of Nice, effective February 1, 2003. They were also modified by accession treaties to provide for institutional changes when Austria, Finland, and Sweden acceded on January 1, 1995, and the twelve Central European and Mediterranean nations acceded on May 1, 2004 and January 1, 2007. These accession treaties are occasionally cited.

Finally, as indicated above, the Treaty of Lisbon's Treaty on European Union substantially amended the prior Treaty on European Union and its Treaty on the Functioning of the European Union replaced the prior European Community Treaty (post-Nice).

3a. Single European Act ("SEA")

The Single European Act ("SEA"), effective July 1, 1987, significantly amended the original Treaty Establishing the European Economic Community ("EEC Treaty"), especially to set the goal of achieving the internal market and to identify the role of the European Council. Citations to the SEA are still made because of its historical significance.

**General Citation Form:**

Single European Act, 1987 O. J. L 169/1, [hereinafter SEA] (amending Treaty Establishing the European Economic Community, Mar. 25, 1957, 298 U. N. T. S. 11 [hereinafter EEC Treaty]).

**Short Cite:**

SEA, *supra* note 3, art. [], 1987 O. J. L 169, at [].

**Subsequent Cite to a Different Article and Page Number:**

*Id.* art. [], at [].

**Subsequent Cite to the Same Article and Page Number:**

*Id.*

3b. Treaty of Maastricht—see 2a *supra*

3c. Treaty of Amsterdam

The Treaty of Amsterdam, signed on October 2, 1997, entered into force on May 1, 1999. The Treaty of Amsterdam amended the initial Maastricht Treaty on European Union principally to move most of the field of Cooperation in Justice and Home Affairs to the European Community Treaty. It also amended significantly the Maastricht European Community Treaty to insert a Social Chapter to authorize legislation in the field of employment. Finally, it renumbered all the articles of the Maastricht European Community Treaty. The Treaty of Amsterdam also changed the articles of the Treaty on European



Union, identified by letters A to S, into numerical form. Consolidated versions of the EU and EC Treaties are attached to it. Citations to the Treaty of Amsterdam are relatively rare.

**General Citation Form:**

Treaty of Amsterdam amending the Treaty on European Union, the Treaties Establishing the European Communities and Certain Related Acts, 1997 O. J. C 340/1 [hereinafter Treaty of Amsterdam].

**Short Cite:**

Treaty of Amsterdam, *supra* note [], art. [], 1997 O. J. C 340, at [].

**Subsequent Cite to a Different Article and Page Number:**

*Id.* art. [], at [].

**Subsequent Cite to the Same Article and Page Number:**

*Id.*

3d. Treaty of Nice

The Treaty of Nice, signed on February 26, 2001, entered into force on February 1, 2003. The treaty made significant amendments to the Treaty on European Union and the European Community Treaty, principally to restructure the political institutions and the Court of Justice so that the Union could function efficiently after its enlargement to 27 Member States. The Treaty of Nice, the prior TEU and the prior EC Treaty were into consolidated versions (*see supra* 1c and 1d), which is frequently cited, while the Treaty of Nice itself is only occasionally cited.

**General Citation Form:**

Treaty of Nice amending the Treaty on the European Union, the Treaties Establishing the European Communities and Certain Related Acts, 2001 O. J. C 80/1 [hereinafter Treaty of Nice].

**Short Cite:**

Treaty of Ni ce, *supra* note [], art. [], 2001 O. J. C 80, at [].

**Subsequent Cite to a Different Article and Page Number:**

*Id.* art. [], at [].

**Subsequent Cite to the Same Article and Page Number:**

*Id.*

#### 4. Other Treaties

Cite the Treaties of Accession that appear in the Official Journal analogously to the examples above: [Official Name] [pincite], [O.J. citation with year coming first as if it were the volume and the page the source starts coming after “/”], [pincite to page in O.J.].

#### 5. Draft Treaty Establishing a Constitution for Europe (NEVER RATIFIED)

The Draft Treaty Establishing a Constitution for Europe (“Draft Constitutional Treaty”) was an attempt to streamline the voluminous text of prior treaties and codify many Court of Justice decisions. Although ratified by fifteen countries, ratification of the Draft Constitutional Treaty was defeated decisively in referenda in France and the Netherlands in June 2005. The failure of the Draft Constitutional Treaty to win popular support in these Member States caused the halt in the ratification process. The European Council then reviewed the ratification process in early 2006 and decided that the draft would be abandoned. Subsequently the Council authorized the drafting of the Treaty of Lisbon. Citations to the Draft Constitutional Treaty are usually only made for historical purposes, or to compare it with the Treaty of Lisbon.

##### General Citation Form:

Draft Treaty Establishing a Constitution for Europe, 2004  
O. J. C 310/1 (never ratified) [hereinafter Draft  
Constitutional Treaty].

##### Short Cite:

Draft Constitutional Treaty, *supra* note [], art. [], 2004  
O. J. C 310, at [].

##### Subsequent Cite to a Different Article and Page Number:

*Id.* art. [], at [].

##### Subsequent Cite to the Same Article and Page Number:

*Id.*

### **C. CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION**

The European Council created a special Convention in 1999 to draft a charter of rights for the EU. The Convention’s product, the Charter of Fundamental Rights of the European Union, was endorsed by the European Council in Biarritz in the fall of 2000, but the European Council could not agree on amending the TEU to insert it. Instead, it was formally “proclaimed” by the Presidents of the Council, the Parliament and the Commission at Nice on December 14, 2000 (therefore often also called the “Nice Charter”). The Court of Justice and the Court of First Instance (now the General Court) then began to cite Charter provisions as an indication of fundamental rights that must be respected. Finally, the Treaty of Lisbon’s Treaty on European Union, Article 6, accorded the Charter binding legal value, even though it was not formally inserted into the Treaty on European Union. The Charter is frequently cited.

**General Citation Form:**

Charter of Fundamental Rights of the European Union art. [], 2010 O. J. C 83/02, at [] [hereinafter Charter of Rights].

**Short Cite:**

Charter of Rights, *supra* note [], art. [], 2000 O. J. C 364, at [].

**Subsequent Cite to a Different Article and Page Number:**

*Id.* art. [], at [].

**Subsequent Cite to the Same Article and Page Number:**

*Id.*

## IV. Court of Justice and General Court Cases

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### A. OVERVIEW

The Court of Justice of the European Union (“Court”) is the supreme court of the European Union (NOTE: Do not confuse the Court of Justice with the European Court of Human Rights (“ECHR”), which is not an EU court). The Court of Justice of the European Union was known as the European Court of Justice (“ECJ”) before 2009. For this reason some authors may refer to the Court as the ECJ, which is now technically incorrect. The General Court (the Court of First Instance (“CFI”) prior to 2009) is an initial court of appeal from Commission decisions and certain other matters, with further appeal to the Court of Justice on issues of law. Both the Court of Justice and the General Court sit in Luxembourg and use French as their working language and the initial language for judgments.

For both Court and General Court cases, cite to the European Court Reports (“E.C.R.”). Unfortunately, the English language version of the E.C.R. is published with long delays, currently about two-and-a-half years. The electronic version (see *infra* Section B) is usually available within a month after the judgment is issued.

The following citation rules apply to footnotes:

- Always cite the name of a case as it appears in the E.C.R., subject to *Bluebook* rules for abbreviations and omissions, as well as the exceptions listed below.
  - Some famous judgments are known by a popular name, which the author may use instead of the formal name (e.g., “Cassis de Dijon,” not “Rewe-Zentral V. Bundesmonopolverwaltung”). See *infra* section B.4 for how to cite cases with popular names.
- Then cite the case number:
  - Note: After the creation of the CFI (now the General Court) in 1989, cases decided by the Court of Justice begin with the letter C (e.g., “C-314/89”), while cases decided by the CFI/General Court begin with “T” (e.g., “T-69/89”).
- Next, place the volume number of the reporter before the reporter designation. Note that ECJ judgments appear in E.C.R. I volumes, while CFI judgments appear in E.C.R. II volumes (e.g., I-415 or II-415).
- Whenever the text is quoting the judgment, or discussing a specific part of it, cite to paragraph numbers wherever possible, rather than specific page numbers, as page numbers vary across translations.
  - Note: When citing paragraph numbers, be sure to cite to the actual opinion paragraph numbers, not the opinion summary, procedure, etc. paragraph numbers. See *infra* section B.5 for citing the paragraph numbers in the summary of judgment, procedure, or other part if what the author is referring to is only in one of those sections and not also in the actual opinion.
- Although the *Bluebook* calls for using only the first party name for combined actions, many cases are well known in the EU by both names, and thus both names should be used.
  - Ex: Zhu & Chen v. Commission, Case C-200/02, [2004] E.C.R. I-9925.
  - Note: If the author has supplied both names then it is likely that both names should be included.
- Cite to the European Commission as “Commission” (don’t abbreviate it to Comm’n when

they're a named party in the case) and to countries by their common names:

- Ex: France v. Commission                      NOT: France v. Comm'n
  - Ex: "Greece," not "Hellenic Republic."
  - Note that the page numbers in the European Court Reporter are separated by a comma when the page numbers are five digits or larger (as per *Bluebook* rule 7):
    - Ex: E.C.R. 11,519                                      NOT: E.C.R. 11519
  - All other *Bluebook* citation rules apply, including 10.9 on short forms for cases, i.e., the five footnote rule.
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## B. BASIC CITATION FORMS

### 1. Cases in E.C.R.

Almost all cases can be found online at Curia, the webpage of the European Court of Justice (<http://www.curia.europa.eu>). Many cases can also be found online at (<http://eur-lex.europa.eu/en/index.htm>). If you cannot find an electronic copy, or need a specific page number, book copies of the E.C.R. reporters are located on stack 7 of the Fordham law library.

#### **General Case Citation Form:**

*Sabel v. Puma*, Case C-251/95, [1997] E. C. R. I-6191, ¶ [].

#### **Short Cite:**

*Sabel*, [1997] E. C. R. I-6191, ¶ [].

#### **Subsequent Cite:**

*Id.* ¶ [].

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### 2. Cases Not Yet Published in E.C.R.

#### **General Case Citation Form:**

*Akl agaren v. Mickelsson*, Case C-142/05, [2009] E. C. R. I\_\_\_\_ (delivered June 4, 2009).

#### **Short Cite:**

*Mickelsson*, [2009] E. C. R. I\_\_\_\_ (delivered June 4, 2009).

#### **Subsequent Cite:**

*Id.*

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### 3. Joined Cases

#### **General Case Citation Form:**

*Luisi & Carbone v. Ministero del Tesoro*, Joined Cases 286/82 & 26/83, [1984] E. C. R. 377.

NOTE: This case is well known as *Luisi & Carbone v. Ministero del Tesoro*, which is why both names (Luisi & Carbone) are included in the title. Otherwise use only the first name given (as shown in the examples below).

NOTE: If the joined cases are consecutive then use an en-dash, not an ampersand to separate the cases:

**Poucet v. Assurances Générales de France, Joined Cases C-159–60/91, [1993] E. C. R. I-666.**

NOTE: if there are three or more joined cases from the same year, that is, if the number after the slash is the same for all the cases, omit the year except for the last case number. In the below example, all cases originated in 1973:

**Coöperatieve vereniging 'Suiker Unie' UA v. Commission, Joined Cases 40–48, 50, 54–56, 111, 113–14/73, [1975] E. C. R. 1663.**

**Short Cite:**

*Suiker Unie*, [1975] E. C. R. 1663, ¶ [ ].

**Subsequent Cite:**

*Id.* ¶ [ ].

4. Cases with "Popular Short Names"

**General Case Citation Form:**

**ACF Chemiefarma NV v. Commission (*Quinine*), Case 41/69, [1970] E. C. R. 661, ¶ [ ].**

**Short Cite:**

*Quinine*, [1970] E. C. R. 661, ¶ [ ].

**Subsequent Cite:**

*Id.* ¶ [ ].

**Subsequent FULL Cite:**

*Quinine*, Case 41/69, [1970] E. C. R. 661, ¶ [ ].

5. Cases Citing not to the Decision, but to the Summary of Judgment or Other Supplementary Part

**General Case Citation Form:**

**Akzo Nobel NV v. Commission, Case C-97/08 P, [2009] E. C. R. I-8237, Summary of Judgment ¶ [ ].**

**Short Cite:**

*Akzo Nobel*, [2009] E. C. R. I-8237, Summary of Judgment ¶ [ ].

**Subsequent Cite:**

*Id.* Summary of Judgment ¶ [ ].

NOTE: When citing to the actual decision and summary of judgment the five footnote rule applies. In the example below, the first citation is to the summary of judgment and the second is to the actual opinion.

1. *Akzo Nobel NV v. Commission*, Case C-97/08 P, [2009] E. C. R. I-8237, Summary of Judgment ¶ [ ].
2. *Akzo Nobel*, [2009] E. C. R. I-8237, ¶ [ ].

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6. Opinions of Advocates General

Advocates General provide influential Opinions to the Court of Justice before it commences to deliberate on the issues in a case. Their Opinions are often cited. Both “Advocate General” and “Opinion” are always capitalized, in text and in footnotes.

6a. Reported Decisions

**General Case Citation Form:**

Opinion of Advocate General Jacobs, *Unión de Pequeños Agricultores v. Council*, Case C-50/00 P, [2002] E. C. R. I-6681, ¶ [ ].

NOTE: The E.C.R. page number, 6681 above, is the page number on which the Advocate General’s opinion starts, NOT the page number on which the Court’s opinion starts.

**Short Cite:**

Opinion of Advocate General Jacobs, *Unión de Pequeños*, [2002] E. C. R. I-6681, ¶ [ ].

NOTE: If the Advocate General’s and the Court’s opinions are cited within five footnotes of each other, then once the first citation is given the next citation can be short cited. In the example below, the first citation is to the opinion of the Advocate General and the second opinion is to the Court ruling in the same case:

1. Opinion of Advocate General Jacobs, *Unión de Pequeños Agricultores v. Council*, Case C-50/00 P, [2002] E. C. R. I-6681, ¶ [ ].
2. *Unión de Pequeños*, [2002] E. C. R. I-6677, ¶ [ ].

**Subsequent Cite:**

*Id.* ¶ [ ].

6b. Decision not yet Published in E.C.R.

**General Case Citation Form:**

Opinion of Advocate General Warner, Ford-Mazda v. Smith,  
Case C-999/90, [1992] E. C. R. I\_\_\_ (delivered Feb. 28, 1992)  
(not yet reported).

6c. ECJ Decision not yet Issued

**General Case Citation Form:**

Opinion of Advocate General Warner, Chrysler-Mitsubishi v.  
Jones, Case C-999/91, [1992] E. C. R. I\_\_\_ (delivered Feb.  
28, 1992) (judgment not yet issued).

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7. Pending Cases

**General Case Citation Form:**

Staatssecretaris van Financiën v. Coffeeshop "Siberië" Vof,  
Case C-158/98 (pending case).

**Short Cite:**

*Coffeeshop*, C-158/98.



## V. Legislation: Directives and Regulations

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### A. OVERVIEW

There are two types of EU legislation: Regulations, which are essentially the same as US laws or statutes; and Directives, which are binding instructions to the Member States to adopt laws or regulations which carry out the substantive terms of the Directive. Presently the Parliament and the Council adopt legislation in most fields, but the Council alone adopted all legislation prior to November 1, 1993, and still acts alone in some fields (e.g., competition law, taxation). The Council authorizes the Commission to adopt regulations in some fields (e.g., agriculture, competition law). Regulations and Directives are numbered consecutively by year of adoption.

Citations to Directives and Regulations are made to the O.J. The Official Journal has a section devoted only to legislation and legally binding decisions the Official Journal—Laws (“O.J. L”). NOTE: there is no period after L in the citation.

### B. DIRECTIVES AND REGULATIONS

If the name and number of a Regulation or Directive is not given in the text, it must be provided in a footnote preceding its citation. Long names may be shortened to the most important topics of the directive or regulation. Later footnote citations should then refer to a short-form name. The names of Directives and Regulations should be capitalized according to *Chicago Manual of Style* rules.

Legislation is frequently amended, or several pieces of legislation may be codified. The initial footnote reference should be followed by a citation of the amendment or codification, referred to as “amended by” or “codified in.” The author must be asked if the added citation is accurate or warranted. Some technical legislation have Annexes which are often amended or supplemented—these need not be cited. Whether legislation has been amended or codified can be found in the bibliographic information on EurLex.

#### 1. Standard O.J. Citations

##### 1a. Parliament and Council Directives

###### **General Citation Form:**

Directive 2004/38/EC of the European Parliament and of the Council on the Right of Citizens of the Union and their Family Members to Move and Reside Freely Within the Territory of the Member States, 2004 O. J. L 158/77 [hereinafter Parliament and Council Directive on Citizens’ Free Movement and Residence Rights].

###### **Short Cite:**

Parliament and Council Directive on Citizens’ Free Movement and Residence Rights, *supra* note [], art. [], at [].

**Subsequent Cite:**

*Id.* art. [], at [].

1b. **Council Directives**

**General Citation Form:**

Council Directive 77/249/EEC to Facilitate the Effective Exercise by Lawyers of Freedom to Provide Services, 1977 O. J. L 78/17 [hereinafter Lawyers' Services Directive].

**Short Cite:**

Lawyers' Services Directive, *supra* note [], art. [], at [].

**Subsequent Cite:**

*Id.* art. [], at [].

1c. **Council Regulations**

**General Citation Form:**

Council Regulation 40/94/EC on the Community Trade Mark, 1994 O. J. L 11/1 [hereinafter Community Trademark Regulation].

**Short Cite:**

Community Trademark Regulation, *supra* note [], art. [], at [].

**Subsequent Cite:**

*Id.* art. [], at [].

1d. **Corrected Version in Citation**

**General Citation Form:**

Council Regulation No. 4064/89 on the Control of Concentrations, 1989 O. J. L 395/1, corrected version in 1990 O. J. L 257/13 [hereinafter Merger Regulation].

**Short Cite:**

Merger Regulation, *supra* note [], art. [], at [].

**Subsequent Cite:**

*Id.* art. [], at [].

1e. Amending or Codifying Directives or Regulations

**General Citation Form:**

Council Regulation No. 207/2009/EC on the Community Trade Mark (codification), 2009 O. J. L 78/1 [hereinafter Codified Community Trademark Regulation].

**Short Cite:**

Codified Community Trademark Regulation, *supra* note [], at [].

**Subsequent Cite:**

*Id.* at [].

### C. CONVENTIONS

In some fields, notably cooperation in civil and criminal justice affairs, the treaties authorize the Council of the European Union to propose the adoption of conventions to the Member States. These enter into force after a specified number of Member States ratify them and are binding as to those states in accordance with public international law. Some conventions authorize the Court of Justice to provide legally binding judgments concerning their interpretation and application. Articles dealing with these fields are apt to cite the conventions.

**General Citation Form:**

Convention on Jurisdiction and the Recognition and Enforcement of Judgments in Matrimonial Matters, 1998 O. J. C 221/1 [hereinafter Matrimonial, Jurisdiction, and Judgment Convention].

**Short Cite:**

Matrimonial, Jurisdiction, and Judgment Convention, *supra* note [], art. [], at [].

**Subsequent Cite:**

*Id.* art. [], at [].

### D. RESOLUTIONS, NOTICES, COMMUNICATIONS, AND OTHER LEGISLATION

Material related to legislation which is not legally binding is published in the Official Journal—Communications (“O.J. C”). Do not give the number, if any, attached to resolutions, notices, communications, etc. Instead, cite to a resolution by name (e.g., “Resolution of 15 October 1990”) and to notices and communications simply as “Commission Notice” or “Commission Communication.” Provide a “hereinafter” to explain the nature of the document. Disregard the five footnote rule.

1. Resolutions

1a. Council Resolution

**General Citation Form:**

Council Resolution of 21 January 1974, 1974 O. J. C 13/1 [hereinafter Social Action Program].

**Short Cite:**

Social Action Program, *supra* note [], 1974 O. J. C 13/1, at [].

**Subsequent Cite:**

*Id.* at [].

1b. European Parliament Resolution

**General Citation Form:**

European Parliament Resolution on the Functioning of Treaty on European Union with the Prospect of the 1996 Intergovernmental Conference, 1995 O. J. C 151/55 [hereinafter European Parliament Resolution].

**Short Cite:**

European Parliament Resolution, *supra* note [], 1995 O. J. C 151, at [].

**Subsequent Cite:**

*Id.* at [].

2. Notices

**General Citation Form:**

Commission Notice, 1990 O. J. C 176/20 [hereinafter Eurotunnel].

**Short Cite:**

Eurotunnel, *supra* note [], at [].

**Subsequent Cite:**

*Id.* at [].

3. Communications/Proposals/Guidelines

**General Citation Form:**

Commission Communication to Member States on Application of Articles 92 and 93 of EEC Treaty and of

Article 5 of Commission Directive 80/723 to Public Undertakings in Manufacturing Sector, 1991 O.J. C 273/2 [hereinafter Commission Communication].

**Short Cite:**

Commission Communication, *supra* note [], at [].

**Subsequent Cite:**

*Id.* at [].

3a. Draft Communications/Proposals/Guidelines

**General Citation Form:**

Commission Communication Guidelines on the Applicability of Article 101 on the Functioning of the European Union to Horizontal Co-Operation Agreements, SEC(2010) 528/2 (draft) [hereinafter Commission Communication Guidelines].

**Short Cite:**

Commission Communication Guidelines, *supra* note [], at [].

**Subsequent Cite:**

*Id.* at [].

## VI. Commission and Council Decisions

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The Commission has the power to take binding legal Decisions in a wide variety of fields, e.g., agriculture, competition, customs, external trade, state aids, and subsidies. The Council takes binding legal Decisions principally in the field known as the Area of Freedom, Security, and Justice, and occasionally in other fields.

### A. BASIC CITATION FORM

Cite to the Official Journal—Laws of the European Union (O.J. L). Decisions prior to 1973 are reported in the Journal Officiel (J.O.) in French. Cite to paragraph numbers wherever possible. When paragraphs are not available cite to page numbers.

Always include the Decision number. Do not cite to the full name of the Decision as it appears in the O.J. L if the decision is lengthy—instead, a short form identification of the principal topic(s) should be given. The short name should be given as its “popular name.”

Do not use hereinafter or supra for Commission or Council Decisions. Cite to paragraph numbers, not page numbers.

### B. EXAMPLES

#### 1. Decisions only in O.J.

##### General Citation Form:

Commission Decision No. 88/454/EEC (*Renault*), 1988  
O. J. L 220/30.

##### Short Cite:

*Renault*, 1988 O. J. L 220/30, ¶ [ ].

##### Subsequent Cite:

*Id.* ¶ [ ].

#### 2. Decisions Not Reported in Full, but Noted in the O.J.

##### General Citation Form:

Commission Decision No. 91/C59/06 (*Aérospatiale/MBB*),  
slip op. (Feb. 25, 1991), *cited in* 1991 O. J. C 59/13.

##### Short Cite:

*Aérospatiale/MBB*, slip op. ¶ 2.

##### Subsequent Cite:

*Id.* ¶ 5.

3. Unreported Decisions

General Citation Form:

Commission Decision No. 92/75/EEC (*Chrysler-Mitsubishi/Eaton*), slip op. ¶ 4 (Feb. 28, 1992).

Short Cite:

*Chrysler-Mitsubishi/Eaton*, slip op. ¶ 2.

Subsequent Cite:

*Id.* ¶ 5.

4. Decision Summaries

General Citation Form:

Commission Decision Summary No. 91/C257/04 (*Portuguese Government aid to Ford/Volkswagen*), 1991 O. J. C 357/5.

Short Cite:

*Aid to Ford/Volkswagen*, 1991 O. J. C 357, ¶ [].

Subsequent Cite:

*Id.* ¶ [].

## VII. Miscellaneous Materials

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### A. GENERAL REPORT ON THE ACTIVITIES OF THE EUROPEAN COMMUNITIES

#### 1. Prior to 1995

COMMISSION OF THE EUROPEAN COMMUNITIES, XXVI<sup>TH</sup> GENERAL REPORT ON THE ACTIVITIES OF THE EUROPEAN COMMUNITIES 1992, at 269, ¶ 749 (1993).

#### 2. 1995 and After

EUROPEAN COMMISSION, GENERAL REPORT ON THE ACTIVITIES OF THE EUROPEAN UNION 1996, at 50, ¶ 88 (1996).

### B. BULLETIN OF THE EUROPEAN COMMUNITIES AND BULLETIN OF THE EUROPEAN UNION

#### 1. Prior to 1993

##### General Citation Form:

Statement to Parliament by Mr. Delors, President of the Commission, on the thrust of Commission policy, 18 E. C. BULL., no. 1, at 7 (1985) [hereinafter Delors Statement].

##### Short Cite:

Delors Statement, *supra* note [], at [].

##### Subsequent Cite:

*Id.* at [].

#### 2. 1993 and After

##### General Citation Form:

E. U. BULL., no. 6, at [] (1994).

##### Short Cite:

E. U. BULL., *supra* note [], at [].

##### Subsequent Cite:

*Id.* at [].

##### General Citation Form:

Dublin European Council, Conclusions of the Presidency, E. U. BULL., no. 12, at [] (1996).



**Short Cite:**

E. U. BULL. , *supra* note [], at [].

**Subsequent Cite:**

*Id.* at [].

**C. COMMISSION "COM" OR "SEC" DOCUMENTS**

**General Citation Form:**

Commission of the European Communities, *Completing the Internal Market: White Paper from the Commission to the European Council*, COM (85) 310 Final (June 1985) [hereinafter *White Paper*].

**Short Cite:**

*White Paper*, *supra* note 5, at [], ¶ [].

**Subsequent Cite:**

*Id.* at [], ¶ [].

**D. COMMISSION PRESS RELEASES**

Commission Press Release, IP/98/1060 (Dec. 3, 1998).

**E. COMMISSION COMPETITION REPORTS**

1. First to Nineteenth Reports

COMMISSION OF THE EUROPEAN COMMUNITIES, *ELEVENTH REPORT ON COMPETITION POLICY 1991*, at 117, ¶ 187 (1982).

2. Twentieth Report and After

COMMISSION OF THE EUROPEAN COMMUNITIES, *XXI ST REPORT ON COMPETITION POLICY 1991*, at 60, ¶ 72 (1992).