



EUROPEAN UNION LAW

Alina Kaczorowska-Ireland

FOURTH EDITION



“This book provides students with a comprehensive and detailed understanding of all aspects of European Union law. It is clear and accessible and has incorporated the most recent changes to this fast-moving and challenging area of the law. It is a must read for all students of the subject.”

Damian Mather, *Senior Lecturer, Manchester Law School*

“*European Union Law* fills a niche in the market, having an accessible writing style at the same time as being explanatory, evaluative, thorough and up to date. An essential text facilitative of students’ engagement with, and understanding of, a relevant and evolving subject.”

Diane Ryland, *Senior Lecturer, University of Lincoln*

The fourth edition of this well established and highly regarded work on EU law maintains its character by combining comprehensive yet accessible coverage with in-depth analysis of the law and student-friendly pedagogy. It is fully up to date so encompassing critical examination of new important judgments of EU and national courts and developments in institutional, constitutional and substantive EU Law.

The book keeps its unique style in that it is both a textbook and a casebook. Case summaries are highlighted in colour-tinted boxes for ease of reference, and are accompanied by key facts and critical analysis, often in the light of subsequent developments.

The student-friendly approach is enhanced by market-driven pedagogical features, including:

- Concise outlines, at the beginning of each chapter describing its content and assisting in revision;
- An aide-mémoire, often presented in diagrammatic form, at the end of each chapter to highlight and reinforce key points;
- End of chapter recommended reading lists to encourage and facilitate further research;
- End of chapter problem and essay questions testing the students’ ability to apply what they have learnt;
- Cross-references to show how topics are interrelated; and
- A map identifying EU Member States, candidate States; and, potential candidate States.

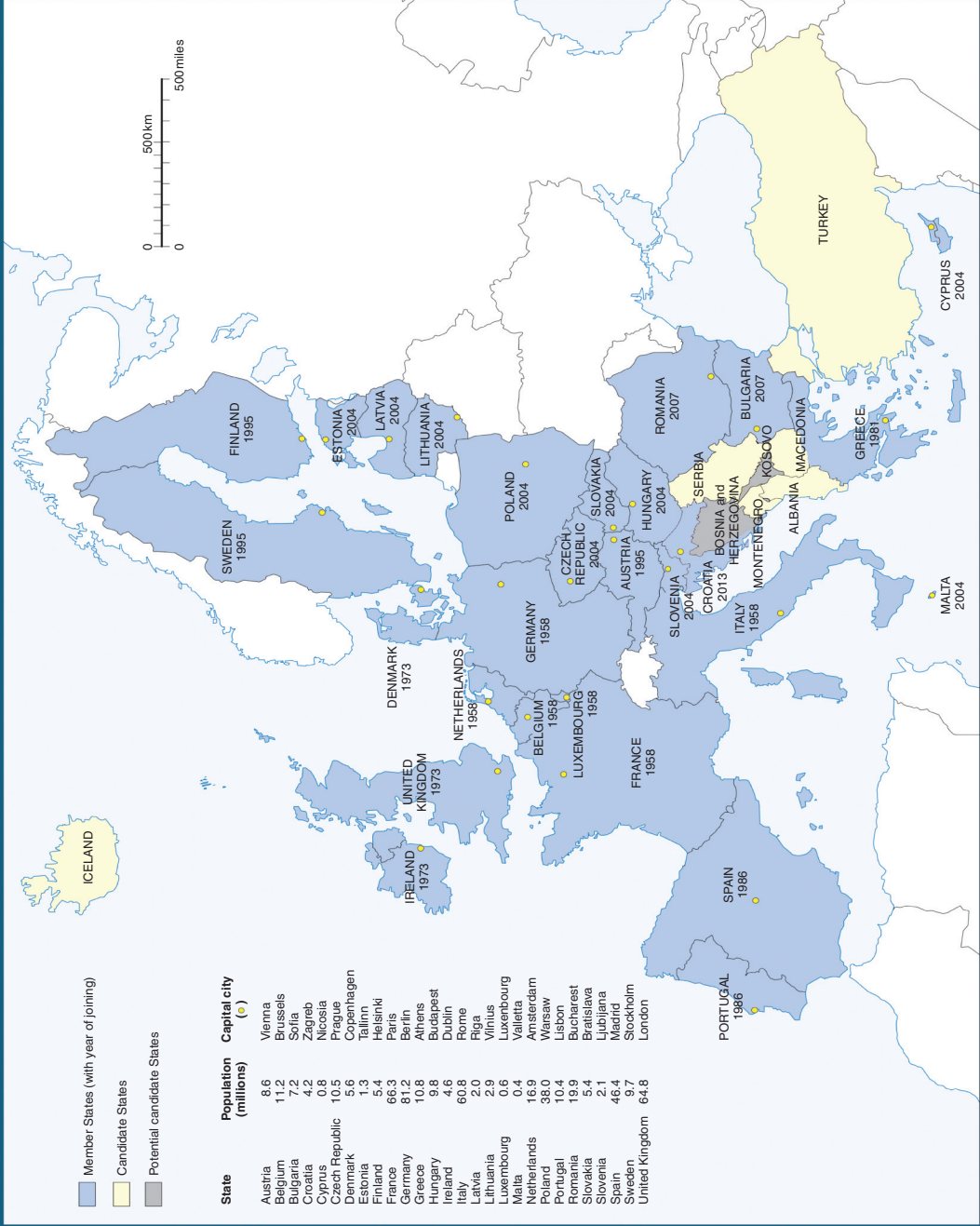
The book’s companion website offers a range of teaching and learning resources including an interactive timeline of the EU, useful web links and downloadable versions of the aide-mémoires from the book.

This book is essential reading for those studying EU law on both undergraduate and postgraduate courses and will be of interest to students of political science, social science and business studies.

Alina Kaczorowska-Ireland is Professor of International and EU Law at the University of the West Indies, Cave Hill Campus, Barbados. She is also the author of the Routledge textbook, *Public International Law*.

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THE EUROPEAN UNION



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EUROPEAN UNION LAW

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PREFACE

Since the 2013 publication of the third edition of this book there have been numerous developments in European Union (EU) law. Following from these developments I have extensively revised all chapters and added entirely new sections to some of them. Further, bearing in mind the importance that has been acquired by the principle of indirect effect of EU law a new chapter has been introduced to deal exclusively with this topic. However, the purpose of the book has not changed – as always I wish to provide my readers with a serious, comprehensive, up to date work, which is engaging and, at the same time, easily readable. I hope that my formula of combining a textbook with a case book makes EU law come to life.

Now, a few practical matters:

1. The renumbering of the Treaties articles by the Treaty of Lisbon (ToL) raised the matter of how to present case law decided prior to its entry into force. My solution has been to ignore the pre-ToL numbering and instead use the ToL's article numbers. However, on some rare occasions, use of pre-ToL article numbers has been unavoidable. In such instances I have placed in square brackets the current numbering immediately after the old.
2. Whenever possible I refer to the EU, rather than to the "EC" or the "Community", but, occasionally, it has been appropriate to retain the historic reference.
3. I refer to the Court of Justice of the European Union (CJEU) as the European Court of Justice (ECJ). This is done to avoid confusion. Indeed, the name CJEU is used in the Treaties, first, to refer to all EU courts including the ECJ and, second, to refer to the ECJ.
4. My last point is that all the so-called "facts" stated in the end of chapter questions are invented and untrue. Any similarity to actual facts or circumstances is entirely coincidental.

I am hugely appreciative of the assistance received from the group of excellent academic EU lawyers, who have each reviewed most chapters of my book, and provided comments and suggestions ensuring that the appropriate ground is covered to the best advantage of students and lecturers alike. I am delighted that my readers will have the benefit of their wisdom and experience.

I am extremely grateful to the Routledge team which has brought this work to publication. In this connection I wish to thank Fiona Briden and Emily Wells for their efficient handling of all stages of preparation of the new edition, their constant encouragement, support and kindness.

This book is up to date as at 1 November 2015.

Alina Kaczorowska-Ireland

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VISUAL TOUR OF *EUROPEAN UNION LAW*, FOURTH EDITION

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forms of integration”

2. Critically assess the role of the EU from the creation of the EU under the Treaty of Rome to the present day.

AIDE-MÉMOIRE

EU BIG EVENTS AND DATES

French foreign minister, proposed the creation of the European Coal and Steel Community (ECSC) and expired on **23 July 2002**.

9 May 1950 – The Schuman Declaration – The Schuman Declaration, which led to the creation of the European Economic Community (EEC) and the European Atomic Energy Community (EA Treaty), both of which entered into force on **1 January 1958**.

14 January 1973 – The accession of the UK to the Communities. The second application by the UK was submitted in 1967 and immediately rejected by France.

8 April 1965 – The Merger Treaty was signed merging the executive bodies of the three Communities (the CS, EC and EA) and creating a single Council and a single Commission. It entered into force on **13 July 1967**.

1 July 1965 – Beginning of the “empty chairs” crisis.

29 January 1966 – The Luxembourg Accord ends the first major political crisis in the EEC, i.e.

AIDE-MÉMOIRES

Visually-stimulating aide-mémoires at the end of each chapter help reinforce the key takeaway concepts for students, and provide a useful revision tool.

Herzegovina. The last two have not formally applied. All three have been promised the prospect of EU membership.

RECOMMENDED READING

Books

Cremona, M., *The Enlargement of the European Union*, 2003, Oxford: OUP.

Cremona, M., *The European Union*, 2008, Cambridge: CUP.

Cremona, M., *The European Union through Conditionality in Central and Eastern Europe*, 2008, London: KLI.

Cremona, M., *The Enlargement of the European Union*, 1994, London: Pinter.

Cremona, M., *Reconciling the EU with the World*, 2008, London: Pinter.

Articles

Albi, A., *The EU Enlargement in the EU: Pre-Conditionality and Post-Accession Conundrums*, (2008) 41 *Journal of European Law*, 1089.

Gialdino, C.C., “Some Reflections on the Acquis Communautaire”, (1995) CMLRev., 1089.

Hilton, C., “EU Enlargement”, in Craig P. and de Burca, G. (eds), *The Evolution of EU Law*, 2nd edn, 2011, Oxford: OUP, 187.

Lenaerts, K., and Van Nuffel, P., “Advanced Integration and the Principle of Equality of Member States within the European Union”, in Kaddous, C., and Auer, A. (eds), *Les Principes Fondamentaux de la*

RECOMMENDED READING

Each chapter concludes with a list of important scholarly books and articles relevant to the topic at hand. These key resources guide independent study and provide a useful point of departure for students wishing to develop their studies.

Constitution Europ... Halbing and Lichtenhahn/Bruylant/LGDJ, 245.
Peers, S., "Ac... The Case for Eastern European Accession to the European
Economic...

PROBLEM QUESTION
Astoria, a fictitious country, wishes to become a member of the EU. In 2010
Astoria is situated in the Baltic sea, just off the Polish
Astoria bought from Poland leader in several economic areas. It has a small
coast. Astoria is a very population of 400,000
through the Church of Astoria.
country. Women are permitted to have up to three
always under the guardianship of women. They are
children. If they go outside their homes they must
a full diver suit. Further, there is an initiation procedure
must be removed. As the Astorian Dentists Association, in
accordance with the World Health Organisation, refuses to extract perfectly healthy

END OF CHAPTER QUESTIONS

At the end of each chapter you will find assignable problem and essay questions, helping students to think critically and prepare for their assessments.

A comparison between public international law and EU law in respect of Member State responsibility for infringement... demonstrates that there are a number of features which enhance the...

	Public International Law	EU Law
1. Required.		Not required: Case 7/71 <i>Commission v France</i> . ⁹⁷⁰
2. Unclear. The case...	ports ective on fault although most	Rejected: Case 25/59 <i>The Netherlands v High Authority</i> . ⁹⁷¹
3. Defens... necessity reciprocity.	strictly	Rejected: Case 7/61 <i>Commission v Italy</i> and Joined Cases 90 and 91/63 <i>Commission v Belgium and Luxembourg</i> . ⁹⁷²
5. Initiation of proceedings.	Normally by another State and exceptionally in the area of the protection of human rights by a victim.	Normally the Commission under Article 258 TFEU, exceptionally, a Member State under Article 259 TFEU.

FIGURES, TABLES AND DIAGRAMS

The book contains a number of supporting figures, diagrams and tables to help students visualise material described in the text.

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ACF Chemiefarma NV v Commission Case 41/69 (Quinine Cartel Cases) [1970] ECR 661	170, 492, 881
AGM COS.MET Srl v Suomen Valtio, Lehtinen (Tarmo) Case C-470/03 [2007] ECR I-2749	367, 382, 387, 583
AM and S v Commission Case 155/79 [1982] ECR 1575	123–124, 1007
AOK Bundesverband v Ichthyol-Gesellschaft Cordes, Hermani & Co Cases C-264, 306, 354 and 355/01 [2004] ECR I-2493	849
ASBL Vereniging van Vlaamse Reisbureaus v ASBL Sociale Dienst van de Plaatselijke en Gewestelijke Overheidsdiensten Case 311/85 [1987] ECR 3801	858, 873
ASNEF-EQUIFAX, Servicios de Información Sobre Solvencia y Crédito, SL, Administración del Estado v Asociación de Usuarios de Servicios Bancarios (Ausbanc) Case C-238/05 [2006] ECR I-11125	890
ASTI (Association de Soutien aux Travailleurs Immigrés) v Chambre des Employés Privés Case C-213/90 [1991] ECR I-3507	745
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