

# European Union Treaties

A Commentary

von

Prof. Rudolf Geiger, Prof. Daniel-Erasmus Khan, Prof. Markus Kotzur

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## European Union Treaties

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Treaty on the Functioning of the  
European Union

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## Preface

Only a few years after the Second World War – it was in the early 1950s – six States started the ambitious project of European integration by creating the European Coal and Steel Community. Although this entity may nowadays appear as a rather modest starting point, it was nevertheless the first European supranational organization and – according to the preamble of its founding treaty – in fact intended as a first step to create ‘the basis for a broader and deeper community among peoples long divided by bloody conflicts’ and ‘to lay the foundations for institutions which will give direction to a destiny henceforward shared’.

After more than sixty years the project of European integration has developed into an ever closer economic and eventually political Union covering more and more policy areas, gaining more and more competences and responsibilities and, as of 1 July 2013, comprising 28 Member States: From the Atlantic Ocean to the Baltic Sea and from Lapland to the Eastern Mediterranean.

The most recent comprehensive reform has been brought about by the Treaty of Lisbon which entered into force on 1 December 2009 and reorganized the Union’s institutions and powers. Replacing the European Community, the European Union was accorded with legal personality and became the sole EU actor on the international plane. Today, the basic (primary) rules of EU law are enshrined in two treaties: the ‘Treaty on European Union’ and the ‘Treaty on the Functioning of the European Union’, both covered by this Commentary.

Over the years the impact of these Treaties on the legal landscape of Europe has considerably grown, and EU law is increasingly encroaching also upon the domestic legal sphere of the Member States. This development gives rise to both, wholly justified questions of democratic legitimacy as well as simplistic Anti-European agitation. In this situation, it is all the more important not to rely on political catchwords, but to recall what the treaties really say.

This Commentary is meant to explain article-by-article the legal rules created by the Treaties, reveal correlations and help to understand the context as a whole, particularly by showing the case-law of the European Court of Justice and also by drawing attention to the Union’s pertinent legislative acts. The Commentary is supplemented by the text of the Charter of Fundamental Rights, including an introduction to it and with the comments of the European Convention’s Presidency.

Our Commentary is an updated and revised version of an article-by-article commentary already published *by us* in German in its fifth edition. Due to the rather different legal systems and concepts, and not least to the Union’s enormous legal output, both concerning legislation and jurisprudence, our endeavour was indeed not an easy one. Nonetheless, we hope to have met the expectations and needs of our readers. We would be grateful for comments and proposals for the Commentary’s further improvement.

It was Dr Wilhelm Warth, the publisher’s editor, who motivated the editors to engage in this new academic venture. It was him whose stimulating arguments and optimistic views kept us going. He deserves our utmost gratitude.

Our special thanks to Professor Kotzur’s teams in Hamburg and Leipzig, in particular Nadine Lichtblau and Felix Heidrich, for their relentless dedication.

Professor Khan would like to thank in particular Mrs. Sybille Maer for her invaluable support.

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## *Foreword*

Professor Geiger as a Professor emeritus could not rely on a staff any more; he owes a debt of gratitude to his wife Marianne Geiger for her understanding and constant encouragement.

We hope that our Commentary will prove to be helpful for the many practitioners, academics and students working in areas where EU law is relevant.

Rudolf Geiger

Daniel-Erasmus Khan

Markus Kotzur

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