

Table of Contents

Preface	ix
About the Authors	xiii
Table of Contents	xv
Chapter 1	1
Introduction	1
Chapter 2	9
Methods in the U.S. – A Common Law Method	9
2.1. U.S. Common Law Basics for Non-Americans	10
2.1.1. <i>Introduction</i>	10
2.1.2. <i>State sovereignty</i>	12
2.1.3. <i>Life for the American law student</i>	13
2.1.4. <i>Law Making Bodies in the United States</i>	15
2.1.5. <i>Tools for Legal Research in the U.S.</i>	17
2.2 Effective Legal Research	17
2.2.1. <i>Secondary Sources First</i>	18
2.2.1.1. <i>Treatises</i>	19
2.2.1.2. <i>Looseleaf services</i>	21
2.2.1.3. <i>Hornbooks</i>	22
2.2.1.4. <i>Legal Encyclopedias</i>	22
2.2.1.5. <i>Law Review Articles</i>	23
2.2.1.6. <i>HeinOnline</i>	25
2.2.1.7. <i>Legal Scholarship Network</i>	26
2.2.1.8. <i>Blogs</i>	27
2.2.1.9. <i>American Law Reports (ALR)</i>	27
2.2.1.10. <i>Restatements of the Law</i>	28
2.2.1.11. <i>Legal Dictionaries</i>	30
2.2.2. <i>The Constitution of the United States of America – the</i> <i>“supreme law of the land”</i>	32
2.2.3. <i>Statutes</i>	33
2.2.3.1. <i>Legal citation</i>	39
2.2.3.2. <i>State legislation</i>	40
2.2.3.3. <i>Legislative Histories</i>	47
2.2.4. <i>Regulations and administrative law decisions</i>	51
2.2.4.1. <i>How to find regulations</i>	55

2.2.4.2. Executive Orders	59
2.2.4.3. Regulations.gov	60
2.2.4.4. Agency decisions	60
2.2.4.5. State administrative law resources	61
2.2.4.6. Online sources of administrative law	61
2.2.5. <i>Case Law Research</i>	64
2.2.5.1. State court system	68
2.2.5.2. Publication of judicial decisions	72
2.2.5.2.1. Published and unpublished	72
2.2.5.2.2. Official and unofficial	74
2.2.5.2.3. Trial and appellate courts	74
2.2.5.2.4. Reporters	74
2.2.5.2.5. Publication of Federal Court Decisions – U.S. Supreme Court	75
2.2.5.2.6. Lower Federal Court Reporting	76
2.2.5.2.7. Publication of State Court Decisions	77
2.2.5.2.8. Indexing Case Law	79
2.3. Boolean Searching and Natural Language Full Text Searching	84
2.3.1. <i>LexisNexis and Westlaw are not the only online games in town</i>	88
2.4. Shepardizing	90
2.5. When to Stop Researching	97
2.6. Hybrid Legal Research is Most Effective	98
2.7. Conclusion	99
Chapter 3	101
Methods in Europe - A Civil Law Method	101
3.1. Civil Law Basics for Americans	101
3.1.1. <i>Introduction</i>	103
3.1.1.1. Some terms for the American Students/Scholar to keep in mind	110
3.1.2. <i>State sovereignty</i>	114
3.1.3. <i>The European Continental Court System</i>	115
3.1.3.1. Where to find case decisions	118
3.1.4. <i>Legislation - Codes</i>	118
3.1.4.1. Where to find acts/codes	121
3.1.5. <i>Law Reviews/Journals in Europe</i>	124
3.1.6. <i>The Legal Families of Continental Europe</i>	126
3.1.6.1. Some basic books for different European countries written in English by natives	128
3.1.7. <i>Legal Science and Legal Philosophy</i>	130

3.1.8. Citations	131
3.2. Legal Research	132
3.2.1. Introduction.....	132
3.2.2. Legal Methodology.....	134
3.2.3. The Legal Method in Principle.....	137
3.3. The Method in Detail	140
3.3.1. Law-foundation-sources.....	140
3.3.1.1. Hard (or binding) law-foundation-sources	141
3.3.1.1.1. Juridical precepts.....	141
3.3.1.1.2. Decisions	142
3.3.1.1.3. Customary law.....	144
3.3.1.2. Soft Law.....	144
3.3.1.2.1. Preparatory work	145
3.3.1.2.2. Statements by the Parliamentary Ombudsman.....	145
3.3.1.2.3. Legal Literature describing already Existing Rules or Law	146
3.3.1.2.4. Private source of law	149
3.3.1.2.5. Legal Cultural Tradition.....	149
3.3.2. Use of the source of law	149
3.3.3. Interpretation of the law-foundation-sources	150
3.3.3.1. Statutes.....	152
3.3.3.2. Court decisions – Finding Precedential Authority.....	158
3.3.4. Relations between National Law and International / E.U. Law	162
3.3.4.1. Monistic versus Dualistic Idea	162
3.3.4.2. National law versus E.U. Law.....	163
3.4. When to Stop	165
3.5. Conclusion / Recap	165
Chapter 4.....	167
European Union Resources.....	167
4.1. Introduction	167
4.1.1. The European Parliament	173
4.1.2. The European Commission	178
4.1.3. The Council of the European Union	178
4.1.4. The E.U. Courts	179
4.1.5. The European Judicial Cooperation Unit.....	183
4.1.6. The Pillars of the European Union	184
4.2. Sources of E.U. law.....	188
4.2.1. Hard and soft Law in E.U.....	188
4.2.2. E.U. “law” and Language	189

4.2.1. Interpretation of E.U. Statutory law.....	195
4.3. Where to find E.U. material.....	199
4.3.1. Treaties.....	202
4.3.2. Regulations, Directives & Decisions:.....	202
4.3.3. Preparatory Documents (COMDocs).....	203
4.3.4. Official Journal.....	203
4.3.5. E.U. Case law.....	204
4.3.6. Advocate-General's documentation.....	207
4.3.7. E.U. Ombudsman's documentation.....	207
4.3.8. Parliamentary documentation.....	207
4.3.9. Commission documentation.....	210
4.3.10. Council of Europe documentation.....	211
4.3.11. Implementing national laws.....	212
4.3.12. Miscellaneous.....	212
4.4. Citations.....	214
4.4.1. Official Journal.....	214
4.4.2. E.U. Ombudsman.....	215
4.4.3. Regulations.....	215
4.4.4. Directive.....	215
4.4.5. Court Decisions.....	215
4.5. Reader information for Directory of Community Legislation.....	216
4.5.1. Presentation of documents.....	217
4.5.2. The document number.....	217
4.5.3. Title.....	218
4.5.4. The publication reference.....	218
4.5.5. References to amending acts.....	218
4.5.6. References to consolidated texts.....	219
4.5.7. Document retrieval.....	219
4.5.8. Explanation of codes.....	220
4.6. The changes pursuant to the Treaty of Lisbon of 2007.....	222
4.6.1. Introduction.....	222
4.6.2. Structure and Source of Treaties after the Treaty of Lisbon.....	224
4.6.3. E.U. Working Institutions.....	226
4.6.4. The Legal Base for the European Union.....	229
4.6.5. National Parliaments.....	231
4.6.6. Principles of Conferral, Subsidiarity and Proportionality.....	233
4.6.7. Legislative Procedure.....	235
4.6.8. Charter for Fundamental Rights.....	237
4.6.9. European External Action Service.....	238
4.6.10. Withdraw or Opt-out.....	238

Chapter 5	239
Public International Law Resources	239
5.1. Introduction	239
5.2. Monists versus Dualists.....	241
5.3. Sources of Public International Law.....	242
5.4. Interpretation of international instruments & Travaux Préparatoires ...	244
5.5. Where to find public international law?	247
5.5.1. <i>Customary Rules of International Law</i>	247
5.5.1.1. Customary Norms of Different “Sanctity”	249
5.5.1.1.1. Ius/Jus Cogens	249
5.5.1.1.2. Erga Omnes	249
5.5.1.1.3. Differences between Jus Cogens and Erga Omnes	250
5.5.2. <i>Treaties</i>	251
5.5.3. <i>General Principles of Law</i>	255
5.5.4. <i>Decisions of the Tribunals</i>	256
5.5.5. <i>Writings of Publicists and Authors</i>	257
5.5.6. <i>Resolutions and declarations of International Organizations</i>	258
5.6. Where to find material	258
5.7. Citations.....	262
Chapter 6	265
Legal Families	265
6.1. Introduction	265
6.2. A suggested division into legal families	267
Chapter 7	273
Comparative Law Methods	273
7.1. Introduction – Not just comparison	275
7.2. About the Method.....	279
7.3. A Plan	284
7.4. Advice & Comments.....	286
7.5. When to stop?	291
APPENDIX	292
1. Glossary Terms & Abbreviations	293
2. Citations and Signals for U.S. material.....	321
3. Alphabetic – Courts in Federal Circuits	327
4. Renumbering/equivalences tables of E.U. Treaties.....	329
<i>TEU - Treaty on European Union → Treaty of Amsterdam</i>	329
<i>TEC - Treaty establishing the European Community → Treaty of</i>	
<i>Amsterdam</i>	330
<i>TCE – Treaty establishing a Constitution for Europe (not in force)</i>	334

<i>Lisbon Treaty (info force 1 January 2009 if ratified by all Members)</i>	348
Lisbon Treaty -> Renumbering of Treaty on European Union (TEU)	349
Lisbon Treaty -> Treaty on the Functioning of the European Union (TFEU)	355
5. Some Popular Databases in Westlaw	378
6. Bibliography	382
7. Tables	394
8. Index	396
Addendum – REQUIREMENT FOR STUDYING FOREIGN LAW – TEACHER MANUAL	409