

UNIVERSITY OF BOLTON

SCHOOL OF LAW

LAW PATHWAYS

SEMESTER 2 EXAMINATION 2021/2022

EUROPEAN LAW

MODULE NO: LAW5002 / LAW5102

DATE: Thursday 19th May 2022

TIME: 10.00am – 12.00pm

INSTRUCTIONS TO CANDIDATES:

There are **FOUR** questions in **Section A**. Answer **TWO** questions from this section. All questions in this section carry equal marks. This is an open book exam.

Candidates are permitted to take into the examination an unannotated EU statute book or printed version of the current EU Treaties.

In **Section B** there are 30 questions in total. Answer **ALL** questions. All questions carry equal marks.

To each question there is only **ONE** correct answer. If you give more than one answer for any multiple choice question you will receive **NO** marks for that question.

ANY ANSWERS NOT WRITTEN IN THE ANSWER BOOK WILL NOT BE MARKED.

Both question paper and answer book must be handed in at the end of the examination.

Answers must be completed in the student answer book provided. For example, for question 1 write 1 in the left margin followed by the on the lined page. Answers not entered in the answer book will be marked as incorrect.

The multiple choice test amounts to one third of your mark in this module.

Please turn over when instructed to begin

Section A

1. Reinke is a German national who has moved to Malta in search of employment. He applied for a job as a senior IT manager in the Department of Foreign Affairs, but is refused an interview on the basis that the post is reserved for Maltese nationals. Malta argued that EU law permits it to reserve some public sector posts to nationals. After failing to secure a job, he decided to move to France in 2019. Here he first lived at a campsite near a seaside resort and then from December 2020 in Paris, initially at a youth hostel and then in a religious hostel, where, in return for board and lodging and some pocket money, he did various jobs for about 30 hours per week as part of a personal socio-occupational reintegration programme. Due to his employment issues, he was not able to save any significant amount of money, however he applied for a state minimum subsistence allowance so as to be able to leave the hostel and live independently. The French social assistance authorities have refused his application as he is not a French national and not a worker or self-employed. **Reinke seeks your advice as to any compatibility issues with EU law.**

2. **Assess the compatibility of each of the following (hypothetical) measures and practices with EU law:**

A tax introduced by Dusty Oil County Council in Ireland on the transportation of natural gas extracted off the Dusty Oil coast and processed in the Dusty Oil County Council's governance area of that region, with the result that only gas extracted and used in that area is not subject to the charge. Dusty Oil County Council says this is justified as local gas users pay rates, other local charges and/or have to tolerate the location of an extremely large gas refinery in the county.

3. Article 5 of (the fictional) Directive 2018/1210/EU on the use of mobile phone technology in motor vehicles provides that: "[a]ll cars or motor vehicles, whether used or new, sold by any undertaking or other operator after the implementation of this Directive must include, as a minimum safety requirement [...] a 'hands-free', 'bluetooth' or similar capability for using the device in that private car or vehicle which provides the person(s) in control of that private car or vehicle with the possibility of orally communicating through their mobile device without having to hold it in their hand." Article 30 of the same Directive states that "member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive including as regards compliance by undertakings and other operators concerned by 16 June 2020." Vanessa, was knocked down by a car, which was being driven by Greggori, in January 2021 while she was out walking her dog. The driver of the car, Greggori, mounted the footpath while holding and dialling a number on his mobile phone at the time of his collision with Vanessa. Vanessa suffered bad injuries to her neck and spine in the accident. She has had to give up her job as a yoga teacher as a result and she is finding it difficult to find alternative suitable employment. She is also undergoing a long and expensive course of physical therapy. She was awarded €8,000 compensation, paid by Greggori's motor insurance company, but she insists that it only partially covers the losses that she has and continues to suffer. Greggori has been convicted under the national Road Traffic Acts of causing harm by dangerous driving and, as a consequence, was fined €1,500. He was also disqualified from driving for 2 years. He subsequently, and consequently, lost his job as a double-glazing window salesman. Greggori maintains that he would have used a 'hands-free' function on his phone had his car been fitted with the equipment to do so. The car had not been fitted with any such device or capability. He bought the car, which was second-hand and four years old, in October 2020 from Neville's Autos Limited, which is based in Enniscorthy, County Wexford. The directive was not transposed into Irish Law until the introduction of the (fictional) Dangerous Driving (Use of Mobile Phones in Cars) (Amendment) Regulations in May 2021. Vanessa seeks your advice on whether she can bring a claim for compensation against either (i) Neville's Autos Limited; or (ii) the State for the non-application and/or non-implementation of the 2018 Directive.
4. **Critically assess the degree to which there exists an effective "rule of reason" in EU competition law.**

END OF SECTION A

Please turn the page

Section B

- 1) In which year did the EU establish the principle of equal pay for equal work?
 - a. 1952
 - b. 1957
 - c. 1965
 - d. 1989

- 2) Which directive made it compulsory for large companies to publish information about their company boards with regard to their diversity policy?
 - a. Directive 2014/95/EU on disclosure of non-financial and diversity information
 - b. Directive 2017/1132 relating to certain aspects of company law
 - c. Directive 2009/102/EC in the area of company law on single-member private limited liability companies
 - d. Directive 2017/828/EU amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement

- 3) Which proposal is considered to be the beginning of what is now the European Union?
 - a. The Schuman Declaration
 - b. The Churchill's Declaration of Policy to the Electors
 - c. The Fouchet Plan
 - d. Wilson's Fourteen Points

- 4) Which were the six founding members of the European Union
 - a. Germany, France, Italy, Austria, Belgium and the Netherlands
 - b. France, Belgium, Greece, Italy, Germany and the Netherlands
 - c. Belgium, Germany, France, Italy, Luxembourg and the Netherlands
 - d. Austria, Belgium, France, Germany, Italy and the Netherlands

- 5) When was the Court of Justice of the European Union created?
 - a. 1 January 1950
 - b. 1 January 1952
 - c. 1 January 1957
 - d. 1 January 1965

- 6) Which country held the first presidency of the Council of the EU?
 - a. Germany
 - b. France
 - c. The United Kingdom
 - d. Greece

- 7) What was involved in the opening of the coal and steel market in Europe?
- The removal of custom duties for coal and iron ore
 - The removal of custom duties and quantitative restrictions of coal, iron ore and tin
 - The removal of quantitative restrictions and of coal and steel
 - The removal of custom duties and quantitative restrictions for coal and iron ore.
- 8) What is the underpinning aim of the European Social Fund?
- To improve job opportunities and raise the standard of living within the EU
 - To implement a Keynesian welfare standard across all member states
 - To raise and harmonise welfare provisions across the EU
 - To provide funding to underprivileged member states to encourage cross-border communication
- 9) What was the subject matter of the first regulation adopted by the EEC?
- Internal Harmonisation
 - Internal Approximation Procedures
 - Official Languages of the EEC
 - European Citizenship Rights
- 10) The European Court of Justice has ruled that only cheese bearing the Protected Designation of Origin 'Parmigiano Reggiano' can be sold under the name 'Parmesan'. As such, European quality logos are used for labelling purposes. Which of the following corresponds best to the applicable law?
- The EU's quality logos help protect and promote products with particular characteristics linked to their geographical origin as well as traditional products.
 - This is contrary to fair competition, in particular the free movement of goods, as it constitutes an MEQR as seen in *Commission v Germany* (Case C-325/00)
 - This is not an MEQR, but contrary to the principle of mutual recognition, as ruled in *Criminal Proceedings against Karl Prantl* (Case 16/83)
 - Although certain kinds of restriction would be permissible on particular grounds, these should relate to public health, public policy or public security, which are not applicable in this case, so the ruling would be void.

- 11) What was the issue preventing the effectiveness of EC Law in Case 6/64 Costa v ENEL?
- There was a lack of enforcement mechanisms to ensure compliance across the EU
 - States could not challenge EU law when it contradicted constitutional provisions
 - There was a lack of legal certainty regarding the responsibility of court jurisdictions and the enforcement of judgements
 - The Treaty of Rome rule on an undistorted market was one on which the Commission alone could challenge national governments
- 12) Where can one find the provision stating that EU action cannot exceed what is necessary to achieve an objective?
- Article 2 TFEU
 - Article 5.4 TEU
 - Article 26 TFEU
 - Article 8.3 TEU
- 13) In which case did the (then) ECJ state that EU law had created a “new legal order” above that of member states?
- Van Gend en Loos
 - Internationale Handelsgesellschaft
 - Mangold
 - Solange II
- 14) Where can you find the principle of subsidiarity?
- Article 12 TEU
 - Article 5.3 TEU
 - Article 2 TFEU
 - It is an unwritten principle
- 15) Direct Effect can be...
- Both Horizontal and Vertical
 - Only Vertical
 - Only Horizontal
 - Both Horizontal and Vertical, yet on a mutually exclusive applicability
- 16) What principle was clarified with the Factortame cases?
- Direct Effect
 - The principle of Subsidiarity
 - The Co-Decision Procedure
 - Supremacy of EU Law

- 17) CEEs were defined in which case?
- Hoekstra v Bedrijfsvereniging Detailhandel [1964] ECR 177
 - Sociaal Fonds voor de Diamantarbeiders v Chougol Diamond Co
 - Commission v Belgium (Customs Warehouses)* (Case 132/82) [1983] ECR 1649
 - Rewe-Zentralfinanz and Others v Landwirtschaftskammer für das Saarland [1976] ECR 1989
- 18) Which of the following cases did not concern selling arrangements?
- Joined Cases C-401/92 and C-402/92 Tankstation't Heukske vof and J B E Boermans
 - Commission v Greece* (Case C-391/92)
 - Konsumentombudsmannen (KO) v De Agostini (Svenska) Forlag AB and Konsumentombudsmannen (KO) v TV Shop i Sverige AB* (Cases C-34-36/95)
 - Europemballage Corporation and Continental Can Co. Inc v Commission (Continental Can)* [1973] ECR 215
- 19) Which of the following legal acts are not binding upon those addressed?
- Regulations
 - Directives
 - Decisions
 - Recommendations
- 20) Who is responsible for the implementation of EU laws following the joint decisions of the parliament and the council of ministers?
- National or Local Authorities
 - The Commission
 - The Court of Justice
 - The Council of Europe
- 21) How has the co-decision procedure affected the role of parliament on the formulation of legislation?
- It has reduced the powers of the Parliament to ensure more inclusivity in proposing new laws to ensure more equality amongst member states, most notably states with smaller population sizes
 - It has given Parliament a much greater role and influence in the formulation of EU legislation in the field of employment and industrial relations
 - Although the powers of the Parliament have not been affected per se, they have added additional powers to other institutions thereby inflating the power of Parliament
 - It has restricted the involvement of the Parliament to a veto power to ensure the Commission is held accountable when required

- 22) When may the European Parliament and the Council extend the free movement provisions relating to services and establishments to third country nationals?
- Only if they provide services, are established within the Union and the ordinary legislative procedure has been followed.
 - Only if they have indefinite leave to remain or meet equivalent residency requirements
 - Only if the provisions correspond with the specific national laws of the members state, as this area falls within the scope of shared competences
 - Never
- 23) Which of these is not an EU institution?
- European Court of Auditors
 - European Central Bank
 - Council of Europe
 - European Commission
- 24) Who proposes EU laws?
- Members of the European Parliament
 - European Commission
 - Member States
 - The Court of Justice of the EU
- 25) Which of these cities is not home to an EU institution or agency?
- Geneva
 - The Hague
 - Luxembourg
 - Alicante
- 26) Which non-EU country is part of the Schengen agreement on border-free travel?
- Israel
 - Turkey
 - Norway
 - Ukraine
- 27) How long has the euro been in circulation?
- Since 1952
 - Since 1992
 - Since 2002
 - Since 2009

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- 28) In *Marshall v Southampton & SWHAHA*, why was Marshall able to enforce her rights under the Directive?
- Because the State was her employer
 - Because the UK law was wrong
 - Because the rights were in a directive
 - Because she worked in the Health Service
- 29) According to the case of *Foster v British Gas*, and *Doughty v Rolls Royce*, which of the following is not part of the criteria for being counted as part of 'the State'?
- It is owned by the State
 - It has special powers given to it by the State
 - It is subject to the control of the State
 - It has delegated powers
- 30) Why was the measure not a breach of Article 34 TFEU in *Keck & Mithouard*?
- It did not breach an EU law
 - It was anti-competitive
 - It prohibited repackaging
 - It was a selling arrangement

END OF SECTION B

END OF QUESTIONS