

**UNIVERSITY OF BOLTON**

**SCHOOL OF LAW**

**LAW PATHWAYS**

**SEMESTER 1 EXAMINATION 2021/2022**

**EUROPEAN LAW**

**MODULE NO: LAW5002/LAW5102**

**DATE: Monday 10<sup>th</sup> January 2022**

**TIME: 2.00pm – 4.00pm**

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**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 EU statute book or a 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 appropriate letter which indicates your answer (a. to d.) 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**

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## **Section A**

1. Critically discuss some of the underlying reasons for diverse opinions of national governments amongst EU member states relating to opposing policy positions on the free movement of persons for the purpose of accessing welfare provisions. In particular, your answer should include a discussion of potential theoretical institutional normative differences in the regulation of national labour markets and welfare states.
  
2. Ranpaq PCs enters into an agreement with Electronics Direct, Portugal's biggest laptop wholesaler, whereby Electronics Direct will supply Ranpaq PCs's laptops to retailers. Ranpaq PCs controls 28 per cent of the Portuguese laptop market. Electronics Direct has a market share of around 29 percent on the relevant wholesale market. Electronics Direct supplies all of Portugal's major computer retailers (who sell products to final consumers). It is thought by the parties that this agreement is essential if Ranpaq PCs is to successfully launch its new series of super-efficient laptops into the market. The agreement includes:
  - (a) a clause prohibiting Electronics Direct from selling Ranpaq PCs's laptops to final consumers;
  - (b) an exclusive distribution clause whereby Ranpaq PCs sells only through Electronics Direct within the UK, and Electronics Direct cannot sell the products of Ranpaq PCs's competitors;
  - (c) a clause prohibiting Electronics Direct from selling Ranpaq PCs's products to retailers in other EU countries, as well as to online retailers who accept orders from customers outside the UK;
  - (d) a clause which requires Electronics Direct to specify a minimum price at which retailers can sell Ranpaq PCs's product to final consumers.

**Advise Ranpaq PCs as to the lawfulness of this agreement under EU competition law.**

3. Verena is a citizen and resident of Malticious, a fictitious EU Member State. She is an employee of the National Hospital of Malticious. She has worked there as a nurse for a period of ten years. She was on maternity leave for the last 7 months of 2020 and returned to work on 1 January 2021. Prior to her maternity leave Verena worked in the paediatric unit. She worked the night shift from 10 p.m. until 8 a.m. on a four nights on, four nights off basis. Prior to maternity leave she earned £30,000 per annum. On return to work she is asked to work in the geriatric ward, working the 2 p.m. to 10 p.m. shift, on a four days on, four days off basis. Her salary remains at £30,000. All other nursing staff who were colleagues in Verena's grade and who were in active employment on 31<sup>st</sup> December 2020 moved to a higher salary of £32,500 and also benefitted from additional pension payments.

Verena is very unhappy with these new employment arrangements. Verena seeks your advice as to whether it is possible for her to rely on the provisions of Directive 2006/54/EC of the European Parliament and the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation against her respective employers in the national courts of Malticious. Malticious has not implemented the Directive with a specific domestic implementation measure but claims that the national laws in place prior to the adoption of the Directive are sufficient to implement it.

In this respect, one of the national measures on which Malticious relies is the Maternity Leave Protection Act, 1976, which provides at Section 10: "A woman returning from maternity leave after the permissible six month period is entitled to a job with her employer, where she worked for the employer for a continuous period of twelve months prior to maternity leave."

**You are required to advise Verena on this matter.**

4. Mettulang is a manufacturer of power drills in Finland, with plants in Finland and Denmark. She is required to obtain an import licence to import her drills into Poland. This requirement was enacted by the Polish government to keep a record of imports of power drills following public pressure after a number of drill related fraud incidents. Moreover, in Hungary she is prosecuted for putting the drills on the market in breach of a Hungarian law which requires, on safety grounds, that the handles of power drills, both imported and domestic, be made of a special hardened plastic. The only manufacturer of this type of plastic in the European Union is situated in Hungary. Consider the difficulties she faces in the light of EU law. **Advise Mettulang as to the impact of any relevant EU law.**

**END OF SECTION A**

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## **Section B**

1. What legal document formed the basis for the UK joining the EU?
  - a. European Communities Act 1972
  - b. European Union Act 1973
  - c. EURATOM Act 1970
  - d. European Economic Community Act 1972
  
2. Which landmark judgement determined that directives can have direct effect?
  - a. Van Gend en Loos v Nederlandse Administratie der Belastingen
  - b. Flaminio Costa v E.N.E.L.
  - c. Van Duyn v Home Office
  - d. Rezguia Adoui v Belgian State and City of Liège
  
3. Which EU legal source has horizontal direct effect?
  - a. Judgements
  - b. Treaties
  - c. Directives
  - d. Recommendations
  
4. Which of the following is not a European Union institution?
  - a. European External Action Service
  - b. Court of Justice of the European Union
  - c. European Court of Auditors
  - d. European Court of Human Rights

5. What is meant by the term 'vertical direct effect'?
- a. *An individual can rely on EU law in any action in relation to the state, but cannot use it against other individuals*
  - b. *An individual can use an EU provision in an action against other individuals, but not against the state*
  - c. *An individual cannot rely on an EU provision at all*  
*The state can rely on EU law in any action against individuals*
6. What is meant by 'Exclusive Union Competence'?
- a. Only Member States can legislate in these areas
  - b. Both the Union and Member States are able to act and Member States are free to legislate as long as they do not enact legislation that conflicts with EU law or principles
  - c. The EU can carry out actions to support, coordinate or supplement Member State activity, but these must not include making the laws of Member States the same
  - d. Only the EU can legislate and adopt legally binding acts i.e. the Member States cannot act independently in these areas
7. How many founding member states of the European Communities were there?
- a. 5
  - b. 6
  - c. 7
  - d. 8

8. When did the Treaty establishing the European Coal and Steel Community (ECSC) come into force?

- a. 17 May 1950
- b. 3 June 1946
- c. 31 December 1950
- d. 23 July 1952

9. The original activities of the EEC were primarily...

- a. Political
- b. Social
- c. Economic
- d. Legal

10. Which other two countries joined the ECs at the same time as the UK?

- a. Germany and Belgium
- b. Ireland and Denmark
- c. Poland and Estonia
- d. Luxembourg and the Netherlands

11. Which treaty aimed to do what the Treaty of Amsterdam did not achieve?

- a. Treaty of Nice
- b. Treaty of Rome
- c. Treaty of Lisbon
- d. Accession Treaty

12. What is the importance of Francovich v Italy?

- a. It developed the principle of state liability for breaches of EU law
- b. It provides an alternative for when direct and indirect effect don't apply
- c. It can be used in conjunction with direct and indirect effect
- d. It established the principle of direct effect of CJEU decisions

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**13.** Which of the following is not a purpose of the European Commission?

- a. It drafts proposals for what the law should be
- b. It implements policies
- c. It spends EU funds
- d. It enforces national law of member states

**14.** Which of the following statements are true:-

- a. Directives are directly applicable
- b. All directives are directly effective
- c. Directives must comply with the Van Gend criteria before they are directly effective
- d. Directives derive their direct effect through direct applicability

**15.** Which of the following is not a key aim of the Treaty of Lisbon?

- a. Improve functioning of the Union
- b. Place greater emphasis on values
- c. Improve the democracy of the Union
- d. Assist the implementation of trade regulations

**16.** In which document will you find the core values of the EU?

- a. Charter of Fundamental Rights
- b. Treaty of Rome
- c. Maastricht Treaty
- d. The Human Rights Act

**17.** The Van Gend criteria states that legislation must be:-

- a. Clear, precise and unconditional
- b. Effective against an emanation of the State
- c. Indirectly effective
- d. Direct, indirect, actual and potential

**Please turn the page.**

**18.** What was the aim of the wider common market?

- a. Any goods, services and capital should be able to move freely between the member states
- b. The majority of goods, services and capital could move freely between the member states
- c. Goods, services and capital should move freely between most member states
- d. Some goods, services and capital can move freely between the majority of member states

**19.** The decision-making triangle is made up of which three institutions?

- a. The commission, the European council and parliament
- b. The commission, the council and parliament
- c. The council, the European council and the commission
- d. The European court of justice, the council and parliament

**20.** The Maastricht Treaty is also known as?

- a. TEU
- b. TFEU
- c. EEC
- d. ECSC

**21.** Which of the following relatives of a migrant worker does not have a right of residence for more than three months under Art 7 of Directive 2004/38?

- a. The dependent father-in-law of the migrant worker
- b. The brother of the migrant worker
- c. The sixteen year old daughter of the migrant worker
- d. The dependant mother of the migrant worker who is a third country national



**22.** For how long do all Union citizens have to reside in another Member State before they are granted the right of permanent residence under Art 16 of Directive 2004/38?

- a. Three months
- b. One year
- c. Five years continuously
- d. None of the above

**23.** Which of the following would not be considered to be a migrant worker?

- a. A piano teacher who only gives 12 hours of lessons per week
- b. A chambermaid who works part-time and is financially supported by her husband who is not an EU national
- c. A plumber who undertakes work in return for remuneration as part of a drug rehabilitation programme
- d. A nail artist established in Belgium who offers services on a continuous basis in other member state

**24.** In which one of the following cases did the Commission fail to find a concerted practice?

- a. ICI V Commission (Dyestuffs)
- b. Ahlstrom Oy V Commission (Wodbpulp cartel)
- c. Trans Ocean Marine Paint Association v Commission
- d. United Brands Company and United Brands Continentaal BV v Commission

**25.** The European Parliament organises its work following two main stages:

- a. Council where legislation is proposed and working groups where it is discussed
- b. Committees meetings where legislation is prepared and plenary session where legislation is passed
- c. Inter-groups where specific interest are discussed and plenary session where legislative proposal are passed
- d. Political groups where legislation is discussed and preparatory committees where it is prepared and passed

**26.** What is the competence of the European Union in legislating in the Social Policy area?

- a. Social policies are the exclusive competence of the European Social affairs minister Marianne Thyssen Commissioner for Employment, Social Affairs, Skills and Labour Mobility
- b. Social policies are primary the competence of national Member States who are supported by the European Union, particularly in monitoring, policy coordination and exchange of good practices
- c. The Social Protection Committee (SPC) proposes directive that are adopted by the Social Affairs Ministers in the Employment and Social Affairs Council (EPSCO)
- d. The European Parliament alone legislates in areas linked to social policy

**27.** What did the Treaty of Rome (EEC Treaty) establish?

- a. A single market
- b. Monetary union
- c. Political union
- d. A common market

**28.** Which of the following statements is TRUE?

- a. The Council is the main legislative body in the EU
- b. The Commission is the main legislative body in the EU
- c. Most secondary legislation is adopted by the European Parliament and the Council together
- d. The European Parliament is the main legislative body in the EU

**29.** The principle of subsidiarity is relevant where:

- a. Member States have exclusive competence
- b. An EU institution has shared competence with Member States
- c. An EU institution has exclusive competence
- d. There is a conflict between national and EU law

**30.** What is prohibited by Article 102 TFEU?

- a. Business agreements restricting internal market competition
- b. Arrangements that distort selling arrangements
- c. Internal Market Corruption
- d. Abuse of a dominant position

**END OF SECTION B**

**END OF QUESTIONS**