

UNIVERSITY OF BOLTON

OFF CAMPUS DIVISION

WESTERN INTERNATIONAL COLLEGE

BA(HONS) LAW

SEMESTER ONE EXAMINATION 2023/24

EUROPEAN LAW

MODULE NO: LAW5102

Date: Tuesday 09 January 2024

Time: 10:00 AM – 12:00 PM

INSTRUCTIONS TO CANDIDATES:

There are 7 questions on this paper.

Answer any 5 questions.

All questions carry equal marks.

For Questions 2 through 7 marks within the question are indicative only. Each of the 5 questions is worth 20 marks in total.

Total marks 100

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Question 1

Provide answers to **four** out of **five** of the following questions

i. Analyse the impact of the doctrine of state liability (in conjunction with the other related doctrines such as direct and indirect effect) on the dual objectives of ensuring that Union law prevails and is enforced within the Member States, and ensuring individuals can obtain their rights under Union law.

(5 marks)

ii. Assess the nature of the legal system of the EU, including how it has been described by the ECJ, highlighting at least one significant difference from other legal systems in the world.

(5 marks)

iii. Set out your analysis for why a definition of the relevant market is a vital first stage in assessing whether Article 102 TFEU has been breached.

(5 marks)

iv. In its early case law, the ECJ created two principles said to be of fundamental importance to the Community legal order, and deemed essential to the effectiveness of Union law. Identify and briefly assess the importance of these twin principles that were established in Case 26/62 *van Gend en Loos v Nederlandse Administratie der Belastingen* [1963] ECR 1 and Case 6/64 *Costa v ENEL* [1964] ECR 585.

(5 marks)

Question 1 continued over...

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Question 1 continued...

v. Briefly assess at least five of the seven main functions of the Commission in light of its role of watchdog of the Union.

(5 marks)

Total 20 marks

Question 2

In sentence form set out the primary functions and powers of the European Parliament (5 marks). Analyse the European Parliament's role in the consultation procedure (5 marks). Analyse the relationship between the European Parliament and other bodies, being sure to cover the following in the course of your analysis:

i. Describe the role of the European Parliament in the adoption of the Commission. (10 marks)

ii. Explain and evaluate how the European Parliament exerts control over the Commission.

(10 marks)

Total 20 marks

Question 3

i. Analyse the evolution of the EU through successive treaties and enlargements

(10 marks).

Question 3 continued over...

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Question 3 continued over...

(In the course of your analysis be sure to set out the names of the three European Communities, stating (next to its name) which Treaty established each one and its date (year). Also set out the countries participating in the enlargements, and (ideally) the dates of their accession.)

ii. Evaluate how the evolution of the EU and, in particular, its enlargement affects the relationship with Member States giving rise to contemporary challenges, in particular those with Poland and Hungary

(10 marks).

Total 20 marks

Question 4

Assess the applicability of legal instruments in the EU, including the extent to which it is possible to distinguish between the concept of direct applicability and the concept of direct effect. (Ideally, your answer should identify the sources of each concept and identify a case that demonstrates the concepts are not synonymous.) Discuss the conditions for direct effect as developed by the Court in *van Gend*, and in *van Duyn*, *Ratti*, and *Marshall*, in relation to Directives.

Total 20 marks

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Question 5

i. Critically evaluate the CJEU's approach to interpretation of Article 36 TFEU. Characterise the CJEU's overall approach to this article.

(5 marks)

ii. Identify at least 5 of the main exemptions and refer to and assess relevant case law that exemplifies the Court's approach

(15 marks).

Total 20 marks

Question 6

i. Assess the role of the CJEU in the development of the EU, identifying at least one impact of what is now the CJEU on the supremacy of EU law.

(5 marks)

ii. In the course of your assessment, analyse the legal relationship between the CJEU and the national courts. Be sure to discuss the following: preliminary ruling jurisdiction, and direct annulment. Be sure to consider and discuss the perspective of Member States on the CJEU's role.

(15 marks)

Total 20 marks

Question 7

i. How do the Commission and the Court of Justice determine the relevant market when considering whether a company is dominant under Article 102 TFEU?

(5 marks)

Question 7 continued over...

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Question 7 continued...

ii. What factors other than market share may be taken into account when determining whether a company is dominant?

(7 marks)

iii. Why is a definition of the relevant market a vital first stage in assessing whether Article 102 TFEU has been breached?

(8 marks)

Total 20 marks

END OF QUESTIONS