

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For The Following Qualification:–

B.A.

Laws C49: European Union Law

COURSE CODE : LAWSC049

UNIT VALUE : 1.00

DATE : 05-MAY-04

TIME : 10.00

TIME ALLOWED : 3 Hours 15 Minutes

EUROPEAN UNION LAW

Answer **FOUR** questions. Answer **THREE** questions from **PART A**, and **ONE** question from **PART B**.

PART A

1. “Although the Court of Justice has attempted by various means to alleviate the problems associated with its case law, the inability of directives to have direct effect in horizontal disputes remains a serious shortcoming of the Community legal order.”

Discuss.

2. Pestfree Ltd. lawfully manufactures “Killa” rat poison in the UK. Advise the company about its rights under EC law in the following situations (assuming that there is no relevant Community secondary legislation):

(a) France requires all rat poisons to be sold in tubs with red screw-cap lids, so that older consumers do not confuse them with medicines (which are usually sold with white screw-cap lids).

(b) Germany has banned the sale of all household products containing diboxin (one of the chemicals used in the manufacture of “Killa”) after newspaper reports suggest that diboxin is linked to the development of skin cancer in humans.

(c) Finland prohibits all advertising of rat poisons (except in trade magazines intended for retailers) on the grounds that the subject matter can distress young children.

(d) Italy taxes rat poisons sold within its territory. There are no Italian manufacturers of rat poison, but several companies in Rome and Milan produce spring-operated rodent traps. Rat poison (including “Killa”) retails at around €15 (of which €10 is tax). Rodent traps also retail at around €15 (of which €5 is tax).

3. “Nowhere are the Community’s changing priorities – away from a purely economic union, towards a truly social union – more apparent than in the field of free movement for Union citizens. But those changing priorities can hardly have come as a surprise: the rule on free movement for workers had already pointed clearly in the same direction.”

Discuss.

4. On 1 April 2004, the Council adopted Directive 666/04 (a fictitious measure) on the basis of Article 95 EC, which sets the maximum limit of genetically modified organisms [GMOs] in foodstuffs produced and marketed in the Member States, and establishes a mandatory labelling of such foodstuffs.

Article 1 of the Directive reads as follows:

“This Directive takes as its basis a high level of health protection.”

Article 2

“Foodstuffs produced and marketed in the Member States should not contain more than 5% of GMOs.”

Article 3

“Foodstuffs packaging must show the level of GMO content in such a way as to cover at least 50% of its surface. The packaging must carry warnings concerning the potential risks to health posed by the excessive ingestion of GMO products.”

Article 4

“Any foodstuffs complying with the requirements of this Directive shall be produced and marketed freely in the Member States.”

The date for the implementation of the Directive is 1 January 2007.

Answer **ALL** of the following:

- i) The UK, which voted against the Directive in the Council, considers that the measure is unacceptable for British business and seeks your guidance as to the available procedure and grounds, in EC law, to contest the labelling requirement established by the Directive.
- ii) Homemade Durteefood Ltd is a company established in the UK. It produces GMOs and provides 70% of the GMOs used by the food processing industry in the whole of the internal market. The company asks your advice as to the possible way(s) and grounds to challenge the legality of the Directive.
- iii) On 12 May 2004, the Swedish Government established a total ban on the production and marketing of food products containing any GMO. Karl is a green-grocer in Stockholm who sells products containing GMOs. On 1 June 2004, his products (valued at EUR 20 000) are confiscated and destroyed by the Swedish authorities. He asks you whether he is entitled to any compensation in EC law.

5. "To construe Article 95(1) EC as meaning that it vests in the Community legislature a general power to regulate the internal market would be incompatible with the principles embodied in Article.5 of the EC Treaty."

Discuss.

6. It has often been said that the law-making process of the European Community is undemocratic and complicated. To what extent have the successive Treaty amendments addressed these criticisms? What further reforms should be made?

7. Answer **EITHER** (a) **OR** (b)

(a) Explain and critically analyse the extent to which the original rationales for sex equality policy in the EC – equality between men and women in terms of pay and their treatment at work – have been overcome by concerns about the protection of fundamental human rights. What has influenced this development?

OR

(b) Critically analyse the development of the principle of equality in EC law.

TURN OVER

PART B

Environmental Protection in the EU

8. Critically analyse the extent to which the environmental policy of the EC governs trade **EITHER** between the Member States **OR** between the Member States and third countries? Use examples from case law to illustrate your answer.
9. Critically analyse the extent to which EC environmental law achieves a compromise between environmental protection and economic progress? Use examples from case law to illustrate your answer.

EU Immigration, Asylum and Human Rights Law

10. "EU Asylum and Immigration Policies display both inclusive and exclusive tendencies which have been constantly evolving for the past 15 years."

Discuss this statement by referring **EITHER** to the EU Asylum Policy **OR** to the EU Immigration Policy.
11. Discuss the extent to which you consider that giving legal effect to the EU Charter of Fundamental Rights will impact upon existing EC law.

External Relations

12. "The European Court of Justice has always sought to expand the external competences of the Community, whereas the Member States have often tried to limit them."

Discuss.
13. "The case law of the European Court of Justice regarding the legal effects of international agreements in the Community legal order is inconsistent."

Discuss.

CONTINUED

EU Competition

14. “European Community competition law has its own distinctive goals, which differ from those pursued by national systems of competition law. Those who criticise the European Commission and the European Court of Justice for applying Articles 81 and 82 EC in too broad a fashion have failed to grasp that fact.”

Discuss.

15. Do Articles 81 and 82 EC impose any obligations upon the Member States? Should they?

Regulatory Competition in the Internal Market

16. “The process of free movement within the Single Market will in itself provide the most efficient solution to the Community’s regulatory needs.”

How far do you agree? And what role would you therefore advocate for Community-level harmonization?

17. “The European ‘Single Market’ is actually nothing of the sort. Community law not only tolerates but actively encourages barriers to free movement and distortions of competition between the Member States.”

Discuss, drawing upon examples from **AT LEAST TWO** of the following fields:

- (a) minimum harmonization;
- (b) freedom of establishment for companies;
- (c) posted workers;
- (d) flexibility and enhanced cooperation.

END OF PAPER