

Exam papers - JUR5440 - EC Substantive Law Spring 2008

May 2008, Faculty of Law, University of Oslo
EC SUBSTANTIVE LAW - EXAMINATION PAPER –

Please answer **BOTH** questions 1 and 2. Also note that in Question 2 you have a choice of answering either part (a) OR part (b) OR part (c).

1 Advise Smokies, who is a Scottish firm which fillets and packs smoked salmon, as to any potential breaches of European Community Law in the following scenarios:

(a) Smokies has recently decided to start looking into possible expansion into the Norwegian and Spanish markets which seem to offer great potential. However, preliminary enquiries reveal that the Spanish Food Authority has recently embarked upon a national publicity campaign encouraging consumers to eat only fish caught by Spanish fishermen. There is widespread speculation that this campaign is a response to the continuing “fishing wars” between the UK and Spain. In addition, smoked salmon is classified as a luxury product in Spain and, as such, Spanish law requires that it only be sold in registered delicatessen.

They are also having difficulties with the Norwegian authorities. First, a Norwegian law requires smoked salmon to be packed in transparent packaging and Smokies’s salmon is packed in opaque packaging. Thus the packed salmon has been confiscated by the Norwegian customer officers and Smokies has been issued with an invoice for 5000 Norwegian Kroner,

AND

b) Smokies has a trade mark, “Smokies’Best,” which it has registered in the UK and France. They have been supplying packed smoked salmon to France for the last 5 years applying their trade mark to the products. They have now discovered that, due to the weakness of the pound, French retailers are importing from UK retailers and selling Smokies’s salmon, with Smokies trade mark “Smokies’Best” in France undercutting Smokies’s prices in France.

2. **ANSWER EITHER (a) OR (b) OR (c)**

(a) “The European Court of Justice (ECJ) faces a dilemma in interpreting the citizenship provisions in the EC Treaty. While failure to interpret them expansively risks undermining EC citizenship, an expansive interpretation risks undermining, in unacceptable ways, the autonomy of the Member States.”

Discuss critically illustrating your answer with case law examples from the ECJ

OR

(b) Discuss critically the rights granted by European Community law as regards access to education and funding of EU nationals wishing to pursue their education in a Member State other than the one of their nationality.

OR

(c) Discuss critically the contribution of the European Court of Justice (ECJ) towards the attainment of an internal market in the context of EITHER the right of establishment OR the provisions of services granted by Articles 43 and 49 EC Treaty.

Recommended time for each question

- 1. 2 hours**
- 2. 2 hours**