

EKSAMEN I JURIDISKE VALGEMNER

VÅR 2013

Dato: Torsdag 6. juni 2013

Tid: Kl. 10:00 – 14:00

JUS5440 – EU Substantive Law – Master students

The language of examination for this course is English: students may answer in English ONLY, answers in any other language than English will be given a F (F for fail).

PLEASE ANSWER 3 QUESTIONS

1(A) Discuss, with reference to relevant case law, how the Court of Justice of the European Union interpreted the meaning of ‘worker’ within the Treaty on the Functioning of the European Union.

AND

1(B) In 2009 Maria, a Portuguese national married Muhammad, a Pakistani national. In 2011 the family moved to Norway where Maria and Muhammad secured work. Their only child, Hans Manuel was born at the end of 2011.

Maria worked in a Bar in the evening as a part-time waitress. Two months ago Maria was charged with causing grievous bodily harm following a fight in the Bar. She was subsequently convicted and given an 18 month prison sentence. When passing the sentence the judge recommended that she be deported on release from prison. Whilst Maria was in prison, Muhammad gave up work to look after Hans Manuel but was told after 3 months that he had to leave the country as he was not an EU national.

Advise Maria and Muhammad as to their rights under EU law.

2. Gelo is a Belgium company who makes chocolates. They are encountering the following difficulties with exporting their products within the European Union:
- The Spanish government charges a levy of €0.30 per chocolate bar imported into Spain.
 - The Danish government taxes milk chocolate at a rate of 16 per cent and dark chocolate at a rate of 10 per cent. Dark chocolate is produced in Denmark but there are no domestic milk chocolate producers.
 - The Irish government requires that products high in sugar, including chocolate, are packaged in round containers. They argue that this allows the consumer to easily distinguish between high and low sugar-content products and promotes public health.



- d. The Hungarian government has banned the sale of products made with cocoa butter that was not processed by hand. They believe that mechanized production of cocoa butter causes environmental damage.

Advise Gelo as to the legality of each of these policies.

3. 'The list of derogations to the free movement of goods rules set out in Article 36 TFEU concerns public rights except for the protection of industrial and commercial property.' Discuss critically, citing relevant case law, the extent to which Article 36 protects the free movement of goods protected by patents and trade marks.
4. To what extent does the EU's external commercial policy complement the achievement of the internal market? Discuss critically how the exclusive competence to negotiate commercial agreements with third countries protects and enhances the concept of an integrated EU market.
5. To what extent does EC law assist Member States nationals who wish to move and reside, but not work, in another Member State? If you wish, you may choose to focus your answer upon those who wish to move for the purpose of study. In your answer refer to both relevant legislation and caselaw.
6. Marie is a French lawyer-linguist of French nationality working with the EU Commission in Brussels. Prior to developing a passion for languages she worked as a litigation lawyer in Bordeaux for over 5 years having passed the bar exam after getting a law degree from the University of Nantes. After becoming a *fonctionnaire* she realised that she can take a long career break, learn another EU language with the potential of getting a promotion after returning to the Commission. Having gone through a short list of EU languages she fell in love with Danish. After studying Danish in Brussels she settled in Denmark and became almost a native speaker in Danish. She thought of taking up law practice in Denmark but immediately met with the following problems:
- a) The local bar association did not allow her to use her French licence in court on the grounds that she did not study Danish law and that she was not a Danish native speaker;
 - b) While she was practicing law as a consultant in a local law firm she wanted to sit for the local bar exam. The authorities told her that to do so she needs to spend 3 years at University studying Danish law;
 - c) In the meantime she found out that to open a business in Denmark, the bureaucracy involved meant that years would have to pass and by the time her permits would be completed, she would have to return to Brussels.
 - d) While she has been residing in Denmark for more than 3 months, she still faced discrimination when paying utility bills on the ground that she is changing her rental accommodation frequently and so her proper resident status cannot be determined.

Advise Marie about her rights under EU law.

JUR1440 – EU Substantive Law – Bachelor students

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Please answer questions 1, 2 AND 3 (ALL questions!)

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- d. The Hungarian government has banned the sale of products made with cocoa butter that was not processed by hand. They believe that mechanized production of cocoa butter causes environmental damage.

Advise Gelo as to the legality of each of these policies.

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Recommended time for each question

1. 45 minutes
2. 45 minutes
3. 30 minutes
