

i Information

PLEASE ANSWER ONLY 3 QUESTIONS

This exam set consists of 5 questions. Please choose and answer three of these questions.

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Question 1

Discuss critically the extent to which the 'selling arrangement' classification of *Keck and Mithouard* ruling has been replaced by a market access criteria to decide whether a restriction imposed by a State measure is prohibited by Article 34 TFEU.

Question 2

In 2016, Hans, a Danish national, moved to Norway and started a job with the Norwegian civil service. His wife Nancy, an American national, moved to Norway with him. Hans and Nancy separated in 2018 and have not lived together since then. She has remained in Norway.

Hans has unsuccessfully applied for promotion. He has been told that all posts above his current grade are reserved for Norwegian nationals.

Hans is also the head of the Norwegian section of 'Liberation in Action'. At the time Hans joined Liberation in Action it described itself as a non-violent European-wide pressure group dedicated to campaigning for a plastic free world. Last month bombs were placed across Europe outside a number of multinationals well known for their plastic packaging. A statement sent to news agencies signed 'Liberation in Action' admitted responsibility for the bombs. The Norwegian Government immediately issued a statement condemning the activities of Liberation in Action in Norway. Hans has participated, in Oslo, in a protest march organized by the Norwegian branch of Liberation in Action. Hans was arrested and has been told that he will be deported for his involvement with this group.

Advise: (A) Pietro, as to the validity of his rejection for promotion and whether he can be deported for his involvement with Liberation;

A N D (B) Candy, as to how her rights under EU law are affected now that she is separated from Hans. Will her rights remain the same if she and Hans divorce or Hans is deported?

Question 3

Following the withdrawal of the United Kingdom from the European Union (EU), the EU and the UK have negotiated a new trade partnership. It contains the following elements:

- i. The establishment of a comprehensive free trade area covering goods and services;
- ii. An ambitious regulatory cooperation to secure UK alignment with internal market rules

The Council of the European Union concluded the new Partnership Agreement by a decision based on Article 8 TEU, Article 114 TFEU and Article 207 TFEU.

(A) The European Commission holds that the legal basis of the EU-UK partnership chosen by the EU Council is incorrect in view of the primary trade objective of the agreement. It thus considers challenging the legality of the above Council Decision before the European Court of Justice.

You are a member of the Legal Service of the Commission, and you are asked to provide legal arguments that it could use before the Court to support its action.

(B) As the negotiation between the UK and the EU was still ongoing, the Dutch Government started negotiating a financial agreement with the UK. The envisaged agreement foresees the free movement of financial services between the UK and the Netherlands.

The Commission considers that the Dutch Government is violating its obligations under EU law, and is considering enforcement proceedings against The Netherlands.

Advise the Commission as to the legal arguments it could use against that Member State.

Question 4

'The European Union would be a much weaker actor on the international plane without the help of the European Court of Justice'. Do you agree?

Question 5

Pierre is a French national who is qualified as a doctor in France. Pierre operates his own fertility clinic in France. One of the services offered by Pierre is to enable his patients to choose the sex of their baby. As required by French law, Pierre holds a licence to provide fertility treatment. There are no other restrictions under French law on the provision of fertility treatment.

Pierre's business is doing very well so he has decided to expand into other Member States. He is considering offering fertility treatment on an ad hoc basis in Belgium and to establish a clinic in Luxembourg. He has been advised of the following provisions of law in those countries which are making him hesitate whether to go ahead with his business expansion plans.











- i. In Belgium a doctor may only offer fertility treatment if qualified in Belgium and holds a certificate of competence issued by the Belgian Ministry of Health.
- ii. In Luxembourg doctors are prohibited from allowing patients to choose the sex of their baby. Giving patients the choice is considered offensive on moral grounds. Furthermore, the availability of fertility treatment may be advertised only in specified medical journals.

Advise Pierre whether, under EU law, he will be subject to these provisions, should he decide to go ahead with his expansion plans.

1 Question 1

Discuss critically the extent to which the 'selling arrangement' classification of *Keck and Mithouard* ruling has been replaced by a market access criteria to decide whether a restriction imposed by a State measure is prohibited by Article 34 TFEU.

Fill in your answer here

Format | **B** | *I* | U | x_2 | x^2 | I_x |  |  |  |  |  |  |  |  |  | Σ | ABC | 

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Maximum marks: 10

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
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Advise: (A) Pietro, as to the validity of his rejection for promotion and whether he can be deported for his involvement with Liberation;

AND (B) Candy, as to how her rights under EU law are affected now that she is separated from Hans. Will her rights remain the same if she and Hans divorce or Hans is deported?

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

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