

DEGREE OF BACHELOR OF LAWS

M9212 EUROPEAN UNION LAW (RESIT EXAM PAPER)

DATE: Friday 28th July 2023 TIME: 9.30am-11.30am

Percentage of final mark carried by this paper: 40%

Materials permitted into Examination Hall: candidates are permitted to have at hand during the examination **a copy of EU Law materials** (e.g. Blackstone's *Statutes on EU Legislation* by Nigel Foster) or printouts of: **the Treaty on the Functioning of the European Union; the Treaty on European Union; and Directive 2004/38/EC.**

Texts can be underlined and highlighted, but NOT annotated.

Answer any THREE questions out of seven

PLEASE TURN OVER

1. Discuss the main theories that have underpinned the European integration process. Use examples in support of your answer.

2. Discuss how the Court of Justice has sought to mitigate Directives' lack of horizontal direct effect.

3. An EU Consumer Rights Directive (*a fictitious directive*) provides that consumers who buy goods online have the right to cancel transactions within twenty-one days of the online purchase. The Directive was adopted on 1 December 2019; the deadline for implementation was 1 July 2021. It is unclear from the Directive provisions whether the right to cancel transactions applies to goods purchased in the sales or on promotion. In February 2020, the Commission issued guidelines on the interpretation of the Directive. According to these guidelines, Member States have discretion to extend the right to cancel transactions to goods bought in the sales or while on promotion. In June 2020, the Commission reviewed its guidelines; according to the revised guidelines, the right to cancellation must apply to goods in the sales and goods bought while on promotion.

PLEASE TURN OVER

Amalia, who lives in Lisbon in Portugal, purchased a laptop online from a Portuguese retailer on 1 January 2022; the laptop was on promotion. Having reviewed her financial situation, Amalia decided to return the laptop. When she attempted to cancel her online transaction on 15 January 2022, she received an email from the seller stating that the right to cancellation only applied to goods purchased at full price.

The Directive was transposed into Portuguese law by the Consumer Protection Act (*a fictitious statute*); the Act was adopted in April 2020. According to the Act, sellers have no obligation to extend the right to cancellation to goods purchased in the sales or while on promotion.

Florence is a Belgian national who lives and works in Luxembourg. Florence is a maths teacher in a secondary school. Secondary school teachers' salaries in Luxembourg are based on seniority. Florence has been informed by her line manager at the school where she worked that periods of employment in other EU Member States would not be taken into consideration for the purpose of calculating her seniority and consequently her salary. Florence worked as a secondary school math teacher in Belgium for four years and in France for three years before she moved to Luxembourg. Florence attempted to challenge the school's policy in a Luxembourg employment tribunal on the ground that it was contrary to EU law, but the tribunal ruled that the policy did not breach EU law.

Advise Amalia and Florence as to whether EU law may be of any assistance to them in seeking compensation for any loss they may have suffered as a result of a breach of EU law.

PLEASE TURN OVER

4. Discuss the legal standing of natural and legal persons to seek judicial review under Article 263 TFEU.

5. Manuel is a German national. He has qualified as a lawyer in both Germany and Austria. Manuel is established in Berlin in Germany. He now wants to open secondary chambers in Vienna in Austria. Vienna Bar Council has informed Manuel that, so long as he remains established in Germany, he will not be allowed to set up chambers in Vienna.

Angela is Manuel's sister; she is also a German national. Angela is a financial adviser; she is self-employed and is established in Hamburg in Germany. Angela wishes to provide financial advising services in Poland. The Polish Financial Authority has informed Angela that, in addition to complying with German professional rules for financial advisers, she must comply with all Polish professional rules for financial advisers. German professional rules do not apply to financial services provided outside Germany.

Heidi is Manuel's and Angela's mother; she is a German national. Heidi has always lived and worked in Germany. She has recently retired and now wishes to move to Spain. Heidi won two million Euros in the German lottery two months ago.

Advise Manuel, Angela and Heidi as to any rights they may have under EU Law.

PLEASE TURN OVER

6. Discuss the limitations to the free movement of persons and their family members on the ground of public policy.

7. The French Government spokesperson has announced the adoption of the following measures:

- a) High-tech goods imported from China into France, either directly or indirectly via other EU Member States, will be subject to a special charge. This charge aims to help make high-tech goods manufactured in France and other EU Member States more competitive.
- b) A charge will be levied on all imports of live animals from other EU Member States into France. The charge aims to cover the costs of additional health inspections required by a new EU Regulation.
- c) A charge will apply to goods imported from other EU Member States into Guadeloupe via mainland France; Guadeloupe is a French overseas region.
- d) An extremely small charge will apply to all imports from and exports to other EU Member States. The charge will finance a new IT system designed to speed up the completion of formalities by importers and exporters in France.

Consider the legality of the measures proposed by the French Government under EU law.

END OF PAPER

INTERNAL EXAMINERS: DR SYLVIE DA LOMBA

EXTERNAL EXAMINER: MR ANGUS MCCULLOCH,

UNIVERSITY OF LANCASTER