

SEMESTER II EXAMINATIONS - SUMMER 1999/2000

BACHELOR OF ARTS (LEGAL SCIENCE)- SECOND YEAR
BACHELOR OF COMMERCE - THIRD YEAR
BACHELOR OF CORPORATE LAW - SECOND YEAR
OCCASIONAL STUDENTS

EUROPEAN COMMUNITY LAW II (LW223)

Professor C. Warbrick
Dr. Sara Drake

Time Allowed: **TWO** Hours. ERASMUS students have **2½** Hours
Answer **THREE** Questions

1. Fairway Ltd, a British company, produces golf clubs using the latest technology. It wishes to penetrate the Irish market. It approaches Mr. Murphy, an Irish entrepreneur, and asks him if he would be interested in promoting and selling its products in Ireland. Mr. Murphy agrees. The first assignment of goods is inspected at Rosslare by the Irish customs authorities and a fee of £10 per golf club is levied on Mr. Murphy. When challenged by Mr. Murphy, the Irish authorities argue that the inspection applies to all golf clubs imported into Ireland to ensure that the goods satisfy safety standards. The charge simply covers the cost of the inspection. Mr. Murphy consults Fairway Ltd. which informs him that the golf clubs have been manufactured in accordance with a Community Directive (fictitious) on the safety of golf equipment.

Advise Mr. Murphy.
2. Analyse and discuss the concept of a discriminatory internal tax which is prohibited under Article 90 of the EC Treaty with reference to the case-law of the European Court of Justice.
3. Gerry is a jeweller based in Galway. He specialises in making the famous Claddagh ring. Although he sells 70% of his jewellery in Ireland, he has recently expanded his activities in the rest of the European Union. However, his marketing strategy has encountered the following problems:
 - a) he is unable to market his jewellery in Germany as national law requires all gold jewellery to be made of 24 carat gold in order to protect consumers from allergic reactions to cheap metals and from misleading advertising;
 - b) criminal proceedings have been instigated against him in France for selling his jewellery at a loss (below cost price);
 - c) in Wales and Scotland, new legislation requires his jewellery to be marked "Made in Ireland." This is to prevent his products being confused with Celtic products made in the United Kingdom.
Advise Gerry.
4. To what extent does the European Court of Justice's decision in Case C-267/91 and C-268/91, *Keck and Mithouard* represent a reversal of the Court's previous case-law on the free movement of goods?
5. You are working as an in-house lawyer for a telecommunications company in Italy. Your company wants to offer a position to Bertie, an Irish national. Having spoken to Bertie, you discover that he will accept the post provided his family can move with him to Italy. Further investigations reveal that his wife, Sheila, is Canadian. She is an English teacher and hopes to find employment at the local University. Bertie and Sheila have two children. Georgina is 18 years old and wants to study History of Art at Florence University. She has a previous conviction for intent to supply ecstasy. Michael (28 years old) is Bertie's son from a previous marriage. Michael is unemployed at the moment, but hopes that he will find work in Italy as a nurse. Michael is HIV positive.

Advise Bertie as to his rights and those of his family under Community law.
6. Critically evaluate the assertion that once an individual has qualified as a lawyer in one Member State, he/she may freely practice in another.