

NATIONAL UNIVERSITY OF IRELAND, GALWAY  
FACULTY OF LAW

SEMESTER 1 EXAMINATION WINTER 2002/2003

3.B.A. LEGAL SCIENCE/ PUBLIC & SOCIAL POLICY  
2 B.CORP./ 2 B.C.L./ 3 B.COMM  
ERASMUS/OCCASIONAL STUDENTS

EUROPEAN COMMUNITY LAW I (LW222)

Professor Dermot Walsh  
Dr. Sara Drake  
Ms. Anna-Louise Hinds

Time allowed: TWO hours.

Answer THREE questions.

Erasmus students have TWO AND A HALF HOURS.

**Note for invigilators:** Students are allowed to refer to the Treaty Establishing the European Community (consolidated version established by the Treaty of Amsterdam) and the Treaty of Nice 2001 or to photocopies or downloaded versions thereof or to copies of Foster, N., Blackstone's EC Legislation (any edition) in the examination room. Erasmus students are allowed to use dictionaries.

1. "EU treaties are neither intrinsically 'good' or 'bad'. They constitute the response to the political question being asked of them at any given point in time." (D.Galloway, *The Treaty of Nice and Beyond*).

Assess any THREE of the amending treaties in the light of this statement.

2. Discuss the effectiveness of the system of institutional checks and balances which operates in the Community. To what extent do you think that this system could be improved?
3. Peter, a European Union Law lecturer, works for the University of Ireland (U.I.), which was recently privatised. Peter, when not lecturing, spends all day every day and some nights in front of his computer, an early model, which is over 20 years old. Due to levels of radiation emanating from the computer screen, Peter's vision has become so impaired that he is virtually blind and no longer able to fulfil the functions of his job. He is therefore forced to leave U.I. foregoing his salary of €30,000 a year.

A (fictitious) Community Directive 92/657 requires all Member States, "for health and safety reasons to replace all computers over 20 years old with new models and to issue warnings to all computer users that overuse can lead to visual impairment". Ireland has failed to implement the Directive by the required date. However, existing national legislation states that, "proper equipment must be provided to all employees in all industries".

Advise Peter on whether he has any right of action under Community law. Your answer should be supported by relevant case-law.

P.T.O.

4. "The bedrock principle of the supremacy of EC law over national law is a creation of the European Court [of Justice], dating from the early years of its existence."  
(S. Douglas-Scott, *Constitutional Law of the EU*)

Discuss the development of the principle of supremacy with reference to the relevant case-law of the European Court of Justice.

5. Answer **a) or b):**

- a) "It is regrettable that the Court has allowed a gap to develop in the system for securing a uniform interpretation of Community law." (S. Weatherill, *EU Law*).

Discuss this statement with reference to the European Court of Justice's ruling in Case 283/81 *CILFIT*.

**or**

- b) The preliminary reference procedure, "puts the European Court in a weaker position than would be normal for the supreme court in a federation. It suggests that the national courts are not subordinate to the European Court, but co-equal: the relationship is not one of hierarchy, but of cooperation" (T. Hartley, *The Foundations of European Community Law*).

Discuss the preliminary reference procedure in light of this statement with reference to relevant case-law.

6. Critically assess the right to challenge Community acts before the European Court of Justice granted to Member States, Community Institutions and individuals under Article 230 EC.

**END.**