

GX 1810

Ollscoil na hÉireann, Gallimh
National University of Ireland, Galway

Semester II Examinations, 2002/2003

Exam Code(s)	2BL1, 2BL2, 3BL1, 3BL2, 4BL2
Exams(s)	2 nd 3 rd & 4 th LL.B
Module Codes(s)	LW224
Module(s)	European Community Law
Paper No.	1
Repeat Paper __ Special Paper __	
External Examiner(s)	Professor Dermot Walsh
Internal Examiner(s)	Dr. Sara Drake
<u>Instructions</u>	Candidates must answer FOUR questions. Candidates must answer at least ONE question from PART A and at least ONE question from PART B . All questions carry equal marks. Students are requested to indicate which questions they have answered on the front of their answer book.
Duration	THREE Hours
No. of AnswerBooks	
<u>Requirements:</u>	
Handout	
MCQ	
Statistical Tables	
Graph Paper	
Log Graph Paper	
Other Material	Materials permitted: Students are allowed to refer to the Treaty Establishing the European Community (consolidated version including 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. Students may also refer to secondary EC legislation in downloaded or photocopied version.
No. of Pages	4
Department(s)	Law

PART A

(Answer at least ONE question from this section).

1. *"Institutional balance between the Commission, Council and European Parliament has always characterised decision-making within the European Union. That balance is dynamic, not static, and it has changed over time."* (Craig & de Burca).

Critically assess this statement.

2. *"It has been argued that the principle of supremacy of Community law prompted a "constitutional revolution" in the Member States."*

In the light of this statement, discuss the implications of the principle of supremacy for the Irish legal order.

3. Answer a) or b):

- a) Discuss the development of the concept of indirect effect by the European Court of Justice in its case law.

OR

- b) *"It remained uncertain after Francovich whether there would be State liability for breaches of Community law other than non-implementation of directives and, if so, whether fault, negligence or some other standard would be required before liability could be established."* (Douglas- Scott).

Discuss how the European Court of Justice addressed these issues in its post-*Francovich* case law.

4. To what extent does the preliminary ruling procedure laid down in Article 234 EC contribute to the uniformity and effectiveness of Community law? Illustrate your answer with reference to the relevant case law.

P.T.O.

PART B

(Answer at least ONE question from this section).

5. *"The prohibition on customs duties and charges with equivalent effect is absolute and unconditional under the EC Treaty. There can be no exceptions to this prohibition as it seeks to achieve one of the fundamental aims of the Community and hence the European Courts have taken a very restrictive approach in interpreting Article 25 EC."*

Discuss, with reference to the relevant case law of the European Court of Justice.

6. The Irish government has decided to introduce a rule restraining traders from providing 24-hour shop services. Michael Fegan owns a '24-hour' garage in the outskirts of Galway city. Michael's business is going to be adversely affected by this rule and he wishes to challenge it under the free movement of goods legislation.

Advise Michael with reference to any relevant Treaty provisions, secondary EC legislation and case law of the European Courts.

7. Anja is a German national, who has come to Ireland to work as a German teaching assistant in an Irish secondary school. Anja is out one night and is accidentally caught up in a brawl on leaving a night club. The Garda Síochána (the Irish police force) arrive on the scene and despite her cries of innocence, Anja is nonetheless arrested for drunken and disorderly behaviour. The Irish authorities subsequently discover that Anja has neither declared her presence in the Irish state nor has she obtained her residence permit even though she has been in Ireland for over 4 months at this stage. The Irish authorities seek to deport Anja for not complying with the relevant administrative requirements and moreover because they discover that she has a previous conviction for assault and feel that she has become a threat to public order and security.

Advise Anja as to her rights under the free movement of people provisions of the EC Treaty, secondary EC legislation and case law of the European Courts.

P.T.O.

8. Discuss how each of the following situations should be dealt with under EC Competition Law with reference to the relevant legal principles in this area.

- a) An agreement between a major supplier of bread in the Republic of Ireland, *Arán Álainn*, with one of its competitors based in Derry, the *Daily Bread*, to fix the price for their products on the Irish market.

AND

- b) *Truck Tyres Ltd.* produces tyres for trucks and holds an 80% market share for its product in the European Union. It refuses to supply its tyres to *Fortt Ltd*, a company which manufactures trucks, on the grounds that it wants to start manufacturing trucks itself.

END