

Ollscoil na hÉireann, Gaillimh
National University of Ireland, Galway

Exam Code: 2CW, 2CL, 3BCOMM, 3BA6, 4BA8, 1OA, 1EM.

Exam: **Semester I Examination 2003/2004**
Third and Fourth Year B.A. (Public & Social Policy ONLY),
Second Year Bachelor of Civil Law, Second Year Bachelor of Corporate
Law, Third Year Bachelor of Commerce, Diploma in Business Studies,
Occasional and Erasmus Students

Module Code: LW 222

Module: European Community Law I

Paper No.:

External Examiner: Dr. Catherine Barnard

Internal Examiners: Ms. Anna-Louise Hinds

Instructions: Students must answer any **THREE** questions. All questions carry equal marks. Students are requested to **indicate** which questions they have answered on the front of their answer book.

Duration: **TWO hours.**

No. of answer books: N/A.

Requirements: **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. Erasmus students are allowed to use dictionaries.

No. of Pages: 28 inclusive

Department: Law

P.T.O

1. *"A complex range of historical, political and economic forces and contingencies contributed to creating the entity (European Union) that exists today. This history is partly reflected in the gradual legal shaping of the Community and Union: in the progressive and continuing enlargement of its membership; and in the series of Treaty amendments over the years dealing with all sorts of substantive and institutional issues". (Craig, P., and de Búrca, G., EU Law – Text, Cases and Materials 2003)*

Comment on the amending treaties to the Treaty of Rome 1957 in light of this statement.

2. *"The institutional environment of the EU in practice is particularly notably for its constantly evolving nature, the tensions and ambiguities which permeate it and the shifting balance of power". (de Búrca, G., The Institutional Development of the EU: A Constitutional Analysis in The Evolution of EU Law 1999)*

Discuss the institutional system of the European Union in light of this statement.

3. The European Community has introduced legislation to grant financial and economic development aid to Eastern European countries following the devastation resulting from a recent (fictitious) war. The Commission favoured the use of Article 133 EC (Common Commercial Policy) as the basis for this legislation. Article 133 EC requires the use of qualified majority voting and the co-decision procedure. The Council of Ministers was in favour of using the fall back measure of Article 308 EC, requiring the use of unanimous voting and the consultation procedure. Because of the urgency of the matter, the legislation was enacted without referring to either provision. The Commission and the European Parliament now wish to challenge the legislation before the European Court of Justice.

Advise the Commission and the European Parliament as to the potential outcome of the case with reference to case law of the European Court of Justice. Assuming that these institutions are successful in their challenge, explain briefly the correct procedures for enacting the legislation.

4. In 2003, St. Mary's primary school, a state-owned institution, was privatised. Gráinne is employed as a primary school teacher in St. Mary's. Last week, Gráinne discovered that she is suffering from a severe disease of the lungs, caused by chalk dust. Gráinne was unaware that the use of chalk could have such a severe effect. Gráinne hands you an untransposed EC directive on the use of dangerous substances in the workplace. The Directive required that Ireland, by 2001, would provide for the labelling of all dangerous substances, including chalk. Gráinne informs you that the board of management of St. Mary's, despite privatisation, is comprised almost entirely of members of the Department of Education and she maintains that 80% of the school's funding comes in the form of grants from the Department of Education. She asks you to consider her rights in EC law. Advise Gráinne.

5. Answer (a) **OR** (b):

- (a) Explain, with reference to case law, the procedural and substantive aspects of proceedings under Article 234 EC.

OR

- (b) Assess whether Article 230 EC offers effective judicial protection to individuals in the European Community.

END