

Feedback — Period One Graded Quiz

[Help](#)

You submitted this quiz on **Mon 26 Jan 2015 11:34 AM PST**. You got a score of **7.00** out of **10.00**. You can [attempt again](#), if you'd like.

Question 1

Direct discrimination occurs when a person is treated less favourably _____ of their status.

You entered:

because

Your Answer		Score	Explanation
because	✓	1.00	
Total		1.00 / 1.00	

Question 2

According to an EU directive, the Member States shall take the measures necessary to ensure that every worker is entitled to paid annual leave of at least four weeks. Emma Larsson works for a private employer who refuses to grant her the said four weeks of annual leave, since she has been on sick leave during the better part of the past year. According to the national applicable law, a company only has to grant paid annual leave to employees who have actually been working during at least half of the reference period (constituting the past year). However, said national law also stipulates that certain absences, such as those due to maternity leave or work-related accidents, shall count as periods of actual work for the purposes of calculating the length of paid leave that an employee is entitled to. Emma's employer claims that her sick leave cannot count as a period of actual work and that she has, hence, not actually worked for the minimum period of time required for her to be granted paid annual leave. Can Emma force her employer to grant her the four weeks of paid annual leave that is stipulated in the EU directive?

Your Answer	Score	Explanation
<input checked="" type="radio"/> No, but she could possibly sue the Member State where she is working for damages, since the Member State has not implemented the Directive correctly.	✗ 0.00	
<input type="radio"/> Yes, she can invoke the direct effect of the EU provision (since it is sufficiently clear and precise) against her employer.		
<input type="radio"/> Yes, since the national law should be given an EU conform interpretation, her sick leave should be counted as periods of actual work.		
Total	0.00 / 1.00	

Question Explanation

Even if the provision in this case is sufficiently clear and precise to – in principle – be given direct effect, a provision in a directive cannot be relied upon directly to impose duties on individuals (as Directives lack the capacity to produce horizontal direct effect). Nevertheless, Emma can rely on the said provision to force her employer to grant her the four weeks of paid annual leave by invoking the principle that national law must be interpreted in conformity with EU law. According to the case-law from the ECJ, this principle requires national courts to do whatever lies within their jurisdiction, taking the whole body of domestic law into consideration and applying the interpretative methods recognized by domestic law, with a view to ensuring that a particular directive is fully effective and achieving an outcome consistent with the objective pursued by it (see Case C-282/10, Dominguez, para. 27). Hence, even if the national law stipulates that Emma's employer only has to grant paid annual leave to employees who have actually been working during at least half of the reference period (and Emma has admittedly not), the national provision stating that certain absences shall count as periods of actual work should be given an EU conform interpretation, in the sense that Emma's sick leave should count as a period of actual work for the purposes of calculating the length of her paid leave.

Question 3

Which transport service falls under the general Treaty provisions on the free movement of services?

Your Answer	Score	Explanation
<input type="radio"/> Train		
<input type="radio"/> Road transport		
<input type="radio"/> Inland waterways		
<input checked="" type="radio"/> Air transport	✓ 1.00	
Total	1.00 / 1.00	

Question Explanation

Air transport is not covered mentioned in Article 100 TFEU.

Question 4

What is the basic condition that must be fulfilled for the EU Charter to become applicable?

Your Answer	Score	Explanation
<input checked="" type="radio"/> That there is a violation of a subjective right	✖ 0.00	
<input type="radio"/> The circumstances must have taken place in Europe		
<input type="radio"/> The applicability of national law		
<input type="radio"/> The applicability of EU law		
Total	0.00 / 1.00	

Question Explanation

According to Article 51 of the Charter, it applies when EU law is 'implemented'. In the case-law of the ECJ, this has been interpreted as meaning any situation where EU law is applicable.

Question 5

Which ground CANNOT justify a restriction on the free movement of capital?

Your Answer	Score	Explanation
<input type="radio"/> Public housing policy		
<input type="radio"/> Town and city planning		
<input checked="" type="radio"/> Agriculture	✗ 0.00	
<input type="radio"/> Economic concerns		
Total	0.00 / 1.00	

Question Explanation

General economic concerns cannot justify a restriction of the free movement of capital, whereas the other objectives may be a legitimate restriction.

Question 6

On what grounds may Member States restrict rights of free movement of persons?

Your Answer	Score	Explanation
<input type="radio"/> Environmental grounds		
<input checked="" type="radio"/> Public policy, public security or public health	✓ 1.00	
<input type="radio"/> Economic grounds		
<input type="radio"/> Educational grounds		
Total	1.00 / 1.00	

Question Explanation

Article 45(3) TFEU allows the Member States to limit the free movement rights of workers on grounds of public policy, public security or public health. Article 21 TFEU does not contain such an express derogation of EU citizens' free movement rights although it states that these rights are subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect. Read in conjunction with Chapter VI of Directive 2004/38 ("Restrictions on the right of entry and the right of residence on grounds of public policy, public security or public health") it becomes clear that the same derogations apply.

Question 7

On which grounds can derogations be made to the freedom of establishment and the freedom to provide services?

Your Answer	Score	Explanation
-------------	-------	-------------

☐ Consumer protection

☒ Public policy, public security and public health.



1.00

☐ The rule of reason

☐ Environmental protection

Total

1.00 / 1.00

Question Explanation

Article 52 and 62 TFEU state the grounds on which discrimination is allowed in the context of the freedom of establishment and the freedom to provide services. The derogations are regulated in secondary legislation. For natural persons that is Directive 2004/38, for companies that is Directive 2006/123.

Question 8

Even if a trademark right exists a third party shall, under certain circumstances, be allowed to use the trademark. Which of the following shall not entitle the proprietor to prohibit a third party from using a trademark, in the course of trade? (Select all that apply)

Your Answer

Score

Explanation



It is allowed to use a competitor's trademark where it is necessary to indicate the



0.17

intended purpose of a product or service

☐ It is allowed to use a competitor's trademark in keyword advertising in order to inform potential costumers about an offer to sell products that are confusingly similar to the products provided by the competitor. ✓ 0.17

☐ It is allowed to use a competitors name and address in commercial information. ✓ 0.17

☐ It is allowed to use a competitor's trademark in order to benefit from the goodwill of the competitors trademarks ✓ 0.17

☐ More or less all types of trademark use is allowed, a long as it is in accordance with honest practices in industrial or commercial matters. ✓ 0.17

☒ It is allowed to use one's own name in commercial information. ✓ 0.17

Total 1.00 / 1.00

Question Explanation

Use that benefits from a competitors goodwill or that is confusingly similar is likely to be regarded as an infringement. It is not the name of competitors that is mentioned in article 6. The fact that limitations apply only if use is in accordance with honest practices in industrial or commercial matters are to be regarded as an additional and general prerequisite read in conjunction with other prerequisites in article 6 (trademark directive).

Question 9

Helen is an employed designer at a big European Company. She has developed a design in execution of her duties as an employee. She wonders who the right belongs to under the rules set out in the council regulation (EC) No 6/2002 of 12 December 2001 on Community design?

Your Answer	Score	Explanation
<input checked="" type="radio"/> The employer, unless otherwise agreed or specified under national law	✓ 1.00	
<input type="radio"/> The designer and the employer jointly, unless otherwise agreed or specified under national law		
<input type="radio"/> The designer, unless otherwise agreed or specified under national law		
Total	1.00 / 1.00	

Question 10

"Individual character" is a requirement to obtain design protection. What does that mean?

Your Answer	Score	Explanation
<input checked="" type="radio"/> It means that a design possesses individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any other previous design	✓ 1.00	

☐ It means that a design possesses individual character if no identical design has been made available to the public before.

☐ It means that a design possesses individual character if it is original in the sense that it is the designer's own intellectual creation.

Total

1.00 / 1.00

