

Feedback — Period One Graded Quiz

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You submitted this quiz on **Mon 26 Jan 2015 12:38 PM PST**. You got a score of **7.25** out of **10.00**. You can [attempt again](#), if you'd like.

Question 1

Following concerns from animal rights campaigners in several member states about the cruelty of seal hunting, and following the introduction by a number of member states of rules prohibiting or limiting the marketing of seal meat and other seal products, the EU introduced a Regulation banning the import of seal meat and other products made from seals. The legal basis for the Regulation was Article 114 TFEU. Several organizations representing seal hunters and traders in seal products brought an action before the Court of Justice of the EU challenging this Regulation, on the grounds that it breached the principle of conferral, as the EU did not have competence to ban the import of seal products. You are a lawyer advising the EU institutions. What is your advice:

Your Answer	Score	Explanation
<input type="radio"/> Argue that the measure is necessary for the proper regulation of the internal market.		



Argue that the measure is necessary for the proper regulation of the internal market.

☐ Admit that the EU is wrong and that the Regulation should be invalidated.

☐ Argue that the measure is necessary for the functioning of the internal market

☒ Argue that animal welfare is a legitimate interest of both the member states and of the EU, and therefore the EU has competence to legislate where this is necessary to achieve a high standard of animal welfare.

✗ 0.00

While it is true that the Court of Justice of the EU has recognized that the protection of animal welfare is a legitimate interest of the EU, the Treaties do not confer on the EU powers to legislate in order to protect animal welfare.

Total 0.00 / 1.00

Question 2

Under what conditions does a certain selling arrangement in the meaning of the judgment in Keck falls outside the scope of Article 34 TFEU?

Your Answer	Score	Explanation
<input checked="" type="checkbox"/> The measure is generally applicable (concerns all affected traders)	✓ 0.25	
<input checked="" type="checkbox"/> The measure does not entail any discrimination in law or in fact	✓ 0.25	
<input type="checkbox"/> The measure is justified by a mandatory requirement	✓ 0.25	
<input type="checkbox"/> The measure is proportionate to the aim in view	✓ 0.25	
Total	1.00 / 1.00	

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 checked="" type="radio"/> Air transport	✓ 1.00	
<input type="radio"/> Road transport		
<input type="radio"/> Inland waterways		

Total

1.00 / 1.00

Question Explanation

Air transport is not covered mentioned in Article 100 TFEU.

Question 4

Which one of the principles below is a principle that stems from the national legal orders and is not unique to the EU legal order?

Your Answer	Score	Explanation
<input checked="" type="radio"/> Principle of direct effect	✗ 0.00	
<input type="radio"/> Principle of primacy		
<input type="radio"/> Principle of legal certainty		
<input type="radio"/> Principle of EU conform interpretation		
Total	0.00 / 1.00	

Question Explanation

The principles of direct effect, primacy and EU conform interpretation are all legal tools specific to the EU legal order. However, the principle of legal certainty is a hallmark of any democratic democracy that claims to adhere to the rule of law – that is, all of the Member States of the EU.

Question 5

Under what conditions do a certain selling arrangement in the meaning of the judgment in Keck falls outside the scope of Article 34 TFEU?

Your Answer	Score	Explanation
<input checked="" type="checkbox"/> The measure does not entail any discrimination in law or in fact	✓ 0.25	
<input checked="" type="checkbox"/> The measure is generally applicable (concerns all affected traders)	✓ 0.25	
<input type="checkbox"/> The measure is proportionate to the aim in view	✓ 0.25	
<input type="checkbox"/> The measure is justified by a mandatory requirement	✓ 0.25	
Total	1.00 / 1.00	

Question Explanation

The correct answers are that the measure is generally applicable, and that the measure does not entail any discrimination in law or in fact . The conditions in other options do not have to be fulfilled in relation to the Keck judgment, but only in the Cassis de Dijon line of cases.

Question 6

The public service exception in Article 45 (4) entails that... (Select all that apply)

Your Answer	Score	Explanation
<input type="checkbox"/> Direct discrimination based on nationality towards employees in the public sector may be allowed	✗ 0.00	
<input type="checkbox"/> Nationality quota are compulsory in the public service because it should be reflective of society	✓ 0.25	
<input checked="" type="checkbox"/> Indirect discrimination based on nationality towards employees in the public sector may be allowed	✓ 0.25	
<input type="checkbox"/> Nationality quota are prohibited in the public sector because it is part of the exercise of the Member State's sovereignty and therefore reserved for its own nationals solely	✓ 0.25	
Total	0.75 / 1.00	

Question Explanation

The public service exception entails that Member States are allowed to discriminate in favour of their own nationals in selecting the people who work in the public service. It is important to note however, that not all posts in the public service fall within the exception. Furthermore the exception does not allow for discrimination of workers once they have been admitted to the post.

Question 7

Which of the following examples are NOT within the scope of the public authority exception in Article 51? (Select all that apply)

Your Answer		Score	Explanation
<input type="checkbox"/> Computer services for a state lottery.	✗	0.00	
<input type="checkbox"/> Notaries	✗	0.00	
<input checked="" type="checkbox"/> Certain activities performed by lawyers.	✓	0.25	
<input checked="" type="checkbox"/> Road traffic experts.	✓	0.25	
Total		0.50 / 1.00	

Question Explanation

The Court of Justice has construed the official authority exception narrowly. Only activities involving the exercise of official authority are excepted. As such a Member State cannot except a whole profession from the freedom of establishment; it may only exclude those activities which, taken on their own, constitute a direct and specific connection with the exercise of official authority (Reyners).

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
<input checked="" type="checkbox"/> It is allowed to use a competitor's trademark where it is necessary to indicate the intended purpose of a product or service	✓ 0.17	
<input type="checkbox"/> 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	
<input type="checkbox"/> It is allowed to use a competitor's trademark in order to benefit from the goodwill of the competitors trademarks	✓ 0.17	
<input checked="" type="checkbox"/> It is allowed to use one's own name in commercial information.	✓ 0.17	
<input type="checkbox"/> 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	
<input type="checkbox"/> It is allowed to use a competitors name and address 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 type="radio"/> The designer and the employer jointly, unless otherwise agreed or specified under national law		
<input checked="" type="radio"/> The employer, unless otherwise agreed or specified under national law	✓ 1.00	
<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 type="radio"/> It means that a design possesses individual character if it is original in the sense that it is the designer's own intellectual creation.		
<input type="radio"/> It means that a design possesses individual character if no identical design has been made available to the public before.		
<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	
Total	1.00 / 1.00	

