

Exam
Introduction to European Law - European Constitutional
Law

EXAMPLE

SURNAME

NAME

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MATRIKELNR

POINTS

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1. Question (3 P)

a) What is the composition of the European Council on the one hand and the Council of the EU on the other hand? (1P)

b) What are the tasks of each institution? Please give one example for each institution! (1P)

c) In contrast to the two mentioned institutions, what is the Council of Europe? (1P)

2. Question (6 P)

The Charter of Fundamental Rights of the Union (CFR) includes a number of modern fundamental rights that go far beyond what the ECHR provides.

a) How do the so-called “principles” differ from the “fundamental rights” in the CFR? Name the relevant legal basis (1 P)

b) Who is the primary addressee of the CFR? (1 P)

c) Has the EU yet acceded to the ECHR and why / why not? (2 P)

d) What is the legal basis for EU accession to the ECHR? (1 P)

e) What is the relationship between the CFR and the ECHR? Name the relevant legal basis governing that relationship! (1 P)

3. Question (6P):

Comment on the following statements and indicate whether they are true or false. Give reasons for your answer.

- **The principle of procedural autonomy is subject to absolute limits in the form of minimum quality requirements. (2 P)**

- **As a directly effective legal act, the regulation is superior in hierarchy to the directive. (1P)**

- **If an individual suffers damage as a result of an infringement of EU law by an institution of a Member State, that individual may bring an action for damages before the ECJ. (1P)**

- **According to the principle of subsidiarity, the Union legislator may only act on condition that the measures taken are limited in form and scope to the minimum necessary to achieve the objective pursued. (1P)**

- **The so-called inverse qualified majority refers to a preventive decision the aim of which is to make it more difficult to deviate from the agreed common rules. (1P)**

4. Question (5 P):

As a reaction to the increased power of digital platforms in the EU, the Union legislator has adopted (fictitious) Regulation 123/2023 on contestable and fair digital markets. The Regulation is applicable for “digital gatekeepers” defined in Article 1. Article 2 prohibits certain unfair business practices. Regulation 123/2023 entered into force on 1 October 2023. Company G fulfills the conditions for “digital gatekeepers” next to approximately 35 other companies. The Union legislators discussed and named some of the possible affected parties during the legislative process, including G. G participated in the public consultation and already voiced disagreement with the Regulation and its targeted position therein.

Is G entitled to lodge an action contesting the legality of Regulation 123/2023? Why (not)?

5. Question (10 P):

Austria intends to fight youth obesity. Therefore, it enacted measures dedicated against the uncontrollable sugar consumption of children. All products including more than 5 % of the daily sugar intake recommended by the World Health Organisation must include a label with a textual warning of sugar-related diseases and cannot be sold near supermarket checkouts. German sweets manufacturer H does not want to change the labels for the Austrian market is worried that the measures will impact the selling of H products in Austria.

- a) Is the measure taken by Austria a restriction of an EU free movement provision? Which one and why (not)? (6 P)**

b) Supposing the measures do indeed restrict an EU free movement provision, will Austria be able to justify the measures? Why (not)? (4 P)