



Sommereksamen 2023

Ordinær eksamen

Skriftlig prøve i: 460141E035 International Business Law

Varighed: 3 timer

Hjælpemidler: Alle

Exam paper – June 2023

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Type

- 3-hour exam.
- On-site written exam with upload of the exam paper in WISEflow, use of the internet allowed during the exam, own PC required.
- Please read full university policy on the examination format.

Note

- All students should read the exam guidelines and instructions carefully, and read the entire exam paper before writing their answers.
- Students must cite their sources throughout their answer paper appropriately and accurately.
- Students should include a full bibliography of academic literature, case law (where relevant), and all sources used as a reference in their answer paper.
- As far as practicable, students must be able to cite English-language literature. Only exceptionally should literature in other languages be referred to.
- The slides used by the lecturer should not be cited. Instead, primary material should be referred to (e.g., the book).
- Students may use a footnote/reference manager (e.g. EndNote, Mendeley, Zotero, etc.) to assist them in keeping track of their references.

- Students may use any citation method, as long as it is used consistently, and it is clear and unambiguous (Recommendations: OSCOLA, Chicago 17th).
- Students should make sure that they are answering their chosen questions as articulately as they can.
- Answer papers are anonymised and graded by both an external examiner and an internal examiner.

Format

- There will be five questions in total on the examination paper.
- Of those five questions posed, students must answer a total of **three questions**. They must select their questions in the following way:
 - o Students must answer the single question from **Section A** (Question 1).
 - o Students must answer one question from **Section B** (Question 2 or 3).
 - o Students must answer one question from **Section C** (Question 4 or 5).
- In their answer paper, students should make clear which questions they are answering.

Technicalities

- The answer paper should have page numbers.
- The answer paper should be completed with the main text in the Times New Roman font, size 12, spaced 1.15, and justified.
- The same applies for the footnotes, except for the font size, which should be 10.

Exam Paper



The Woodie Group is a company that was founded in 2019. Established in Denmark, the company was founded by several carpenters from East Jutland (*Østjylland*) who decided that instead of working on typical carpentry work, they would move into a different area of carpentry through their new company.

The unique selling point of *The Woodie Group's* goods is that they are 'unique wooden structures' such as statues, gazebos, picnic tables, sun-houses, and chairs. The target market would be up-market, well-to-do persons who live in large homes and gardens. Given Denmark is a prosperous state with many large homes, as well as numerous secondary residences (*sommerhus*), the entrepreneurs' belief is that, albeit being established for four years already, that this is still a relatively new market that has yet to be commercially exploited to the maximum potential.



As a four-year old company, the entrepreneurs have hired several employees, and there are now over 15 people working for *The Woodie Group*. The employees design the 'unique wooden structures' to their clients' expectations, design the goods, source the raw materials, build and oversee the products, as well as transport and install the unique wooden structures at their clients' properties.

Given the success of the company, *The Woodie Group* is set to expand. It wants to offer a greater number of goods to serve a broader market, including some less up-scale goods to serve Denmark's prosperous middle-class and their smaller homes and gardens. To do so, the company envisages that it will have to hire more employees, source more materials, and make further investments in order to expand the business.



Questions

Section A

Question 1

One of *The Woodie Group*'s unique products that it designs, manufactures, and sells is its wooden 'living room', which is typically installed at the farther place in clients' gardens. Resembling a living room that is inside houses, this unique wooden structure has two wooden sides, and two glass sides, and is used throughout the summer months by buyers.

Up to now, *The Woodie Group* has designed the goods at its Aarhus office, manufactured them at its workshop in Randers, and from there, transported them to its clients in Denmark for installation. In other words, the company has mainly been doing business within Denmark. Thus far, it has faced few regulatory obstacles imposed by the state, and merely follows the laws which are applicable to it.

Given the expansion of the business, not only to middle-class customers, *The Woodie Group* is also considering selling its wooden 'living room' to its clients' who have secondary residences in northern Germany and southern Sweden. Having not sold its goods in other EU Member States before, or installed the goods in other EU Member States before either, the company is entering uncharted territory.

Analyse, from a legal perspective, the applicable provisions of EU law that provide for the free movement of goods as regards the non-fiscal barriers that may be applicable in such situations.

In your answer paper, ensure that reference is made to the EU Treaties, the applicable doctrines emanating from the case law of the Court of Justice of the European Union concerning non-fiscal measures, and relevant academic literature.

Section B

Question 2

The Woodie Group manufactures goods, but also *installs* the goods at clients' properties. That makes the company a service provider. Thus, the company, if it engages in cross-border commerce as it plans to, has to consider not only the free movement of goods, but also the free movement of services.

Do service providers have rights under EU free movement law? In your answer paper, pay close attention to provisions, if any, from the EU Treaties, refer to any applicable secondary legislation, any relevant case law of the Court of Justice of the European Union, and related academic literature.

Question 3

With *The Woodie Group* expanding its business, it plans to diversify the sources of where it gets the wood that it acquires to build its unique wooden products. Given there is only a limited and narrow range of wood available in Denmark, the company is considering, for the first time, to acquire some of the wood that it needs for its products from other EU Member States. In particular, *The Woodie Group* plans to acquire wood from a number of different suppliers in Poland, given the diversified types of wood that can be acquired there.

Given that *The Woodie Group* is going to enter into business-relations with various companies in Poland, the company is considering that it might be prudent to create a company branch in Poland. In other words, *The Woodie Group*, with primary establishment in Denmark, is considering setting up a secondary establishment in Poland.

What rights does EU law offer for *The Woodie Group* in this regard? In your answer paper, ensure that reference is made to relevant provisions of the EU Treaties, applicable case law of the Court of Justice of the European Union, and relevant academic literature to support your answer.

Section C

Question 4

The Woodie Group creates unique goods. To manufacture unique goods, you need skilled staff. Whilst there are plenty of carpenters in Denmark, the company is of the view that in order to retain the quality of its goods, it needs to hire more skilled staff from other EU Member States. Hiring staff from other EU Member States envisages that the skilled persons, who would be attracted to work for *The Woodie Group*, would relocate from other EU Member States to Denmark.

The free movement of workers in the EU Treaties, in particular Article 45 TFEU, envisages extensive rights for workers. Further, it specifically provides for allowing persons to ‘accept offers of employment actually made’.

Elaborate on how this provision benefits a company like *The Woodie Group*. Furthermore, elaborate on how the concept of Union citizenship benefits the company. In your answer paper, ensure you refer to the relevant provisions of the EU Treaties, any applicable secondary legislation, applicable case law of the Court of Justice of the European Union, and any relevant academic literature to support your answer.

Question 5

Notwithstanding that *The Woodie Group* plans to acquire wood from other EU Member States to manufacture its products, the company is considering how it might expand the business if it is not able to entice skilled workers to move to Denmark. One of the options that is being considered is having some of its manufactured goods made in other EU Member States, rather than having them made in Denmark.

To do so, *The Woodie Group* is considering acquiring a wood-manufacturing workshop in Latvia. It is considering buying a small wood-manufacturing company already in business, and expanding and adapting it for the type of goods that *The Woodie Group* makes. In other words, the company wants to make an investment in another EU Member State.

Account for the free movement of capital in EU law, and the applicable provisions of the EU Treaties that might benefit *The Woodie Group*. In your answer paper, in addition to reference to the aforementioned EU Treaties, ensure that reference is made to relevant case law of the Court of Justice of the European Union, any applicable secondary law, and relevant academic literature in support of your answer.