

EU Law on State Aid

**Elective
Past
Papers**

LL.B. IV



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2020/2021

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ABOUT GhSL

Għaqda Studenti Tal-Ligi (The Malta Law Students' Society) is a faculty-based, non-profit organisation at the University of Malta that represents all law students within the Faculty of Laws.

The organisation plays a pivotal role in law students' academic and social life at the University of Malta. The organisation has also been responsible for publishing the prestigious *Id-Dritt*, and the *GhSL Online Law Journal*.

Moreover, GhSL boasts its own Thesis Library, located at the GhSL office in the Faculty of Laws. Additionally, GhSL is the only law organisation responsible for the distribution of authoritative law notes and past papers.

For further queries on this set of notes, as well as any other, please feel free to contact our **Resources Officer** at resources@ghsl.org.



Advice from an Alumna

By Dr Priscilla Mifsud Parker

The law course is a long journey, but one that, if well-travelled, will lead to beautiful destinations. In an industry which is today attracting many young individuals looking to develop their career in law, it is important to stay ON the beaten track and remain focused. It may go without saying that it is of great importance for all students to attain good academic grades, to be dedicated to their work, as well as to be determined in this highly-competitive industry in order to fulfil their dream of becoming lawyers one day. However what is crucial is that as students and later on as professionals we are innovative by being sensitive to the changes around us. These changes might be political, economic, environmental, socio-cultural or others; what is for sure is that they all have an impact on the profession of a lawyer. We are members of a dynamic profession which is very sensitive to its surroundings. The type and 'genre' of advice which is required from us is all affected by what is being experienced by the receivers of this advice.

Work experience is considered as a vital part of the staple diet of any prospective lawyer in order to put into practice and refine the knowledge gained from the theoretical reality of the lecture halls and lawbooks into the skills required for a successful career in law. An internship will not only show future recruiters that you have a genuine interest in pursuing a career in this sector, but that you have the practical knowledge and skills to succeed in your role.

Here are some personal suggestions that I feel helped me during my journey:

1. *Being Ambitious*

A powerful trait in any competitive industry, ambition will help you in your law course, in your career as a lawyer, as well as in your life. Whilst the law course can be quite intimidating and challenging, an ambitious individual who is dedicated to learning new things has the potential to understand and realize long-term goals. Do not view the journey as one whole insurmountable mountain but focus on the next small goal and once achieved move on to the next and goal by goal you will reach your final target point.

In this respect, gaining valuable work experience through an internship is an important step taken by an ambitious young lawyer who wants to attain certain skillsets, and remain a step ahead of his/her peers. By being inquisitive, analytical and humble enough to accept guidance and mentoring one is guaranteed a fruitful experience in a law firm. It is also not only a means to start focusing on the direction of your career and to build upon your chosen path, but will undoubtedly expose you to the international world. This is crucial, as most of the traditional legal sectors have been intertwined with new areas of legislation and all these together now present much more opportunity for intra-jurisdictional work.

2. *Networking*

By engaging with counterparty students abroad and in international fora one gains an insight into another reality and is exposed to different cultures, ways of communicating and is able to bridge



the differences between parties to a mundane discussion which will eventually become a transaction or a major project in professional life.

3. Organisational Skills

Organisation is key in any industry. Good organisation skills always stand out to a recruiter when considering potential applicants. Such skills can be obtained by gaining experience either through organising one's own work, study plan, student events or cultural/philanthropic events.

Going hand-in-hand with this, is having a study plan. By planning your studies ahead, one will have a sufficient amount of time to meet all the demands, while also being able to participate in productive outside activities. Reviewing notes or case briefs before class can also help you follow and participate in class discussions better, whilst following case-law allows you to apply them for specific situations. In view of the amount of material involved summarising and carving out the most crucial points is essential to then build your argument in papers.

4. Taking your own class notes

It is always important to take down your own notes as laws are always evolving and passed-down notes would provide the context but are not ideally used for the detail. Researching the particular topic and comparing Malta's law with that of other jurisdiction gives one a completely different outlook and commenting on these variances in an exam paper, dissertation or assignment would distinguish one student from another. Not to be overlooked are also the consultation papers, commentaries and other official public documents that are issued by local authorities from time to time on different areas of law and industry. Being abreast of what is happening in industry will help putting the particular law or regulation in context.

5. Participation

Participation is a main element of the learning process. Being actively involved during seminars and lectures and participating in legal debate sessions, mock trial competitions and moot courts are essential in order to improve your persuasive and presentation skills. If you find this very difficult (all of us have different characters and traits), then try to focus on participation in other events which will expose you to public speaking starting off in smaller groups in a more familiar environment and trying out new experiences and larger audiences as you go along.

6. Practice is the key to success

This leads us to our next point – practice. Attaining good grades is undoubtedly an important part of the law course, however, in themselves, they are not enough to show that you have substantial material to succeed. Working within a law firm introduces you to the world of work, and allows you to gain specific industry-related skills which one will only ever be able to learn in a workplace setting.

Work experience can provide you with valuable insight which will help you decide what your career aspirations are and in which areas you would like to further delve into.

UNIVERSITY OF MALTA

FACULTY OF LAWS

LLD I YEAR (2009/0)

MAY/JUNE 2010 EXAMINATIONS

EXAMINATION: ECL 4004 - EC LAW ON STATE AID
DATE: WEDNESDAY 9TH JUNE 2010
TIME: 2.15 pm – 3.15 pm

ANSWER ONLY ONE QUESTION. ALL QUESTIONS CARRY EQUAL MARKS.

1. Examine the criteria which must be satisfied for a national measure to qualify as State aid falling within the ambit of Article 107(1) of the Treaty on the Functioning of the European Union (TFEU).
2. The presumption of incompatibility of State aid with the internal market is not absolute in that paragraphs 2 and 3 of Article 107 TFEU provide for a number of situations where aid is or may be considered compatible. Discuss this statement and in particular consider to what extent it is possible for Member States to provide aid measures aimed to promote regional development.
3. Examine the specific obligations imposed on a Member State under Article 108(3) TFEU when it plans to grant or alter aid. What consequences ensue should a Member State fail to abide by its obligations?

UNIVERSITY OF MALTA

FACULTY OF LAWS

LLD I, II AND LLD III YEAR (2009/0)

MAY/JUNE 2010 EXAMINATIONS

EXAMINATION: PBL5008 – The EU Treaties: Institutional and Democratic Powers

DATE: Friday 11th June 2010

TIME: 9.15 am – 11.15 am

ANSWER ANY TWO OF THE FOLLOWING QUESTIONS. EACH QUESTION CARRIES EQUAL MARKS.

1. How important is the position of the European Parliament to understanding the future development of the European Union?
2. Understanding the functioning of the European Commission is the key to understanding the European Union. Discuss.
3. The European Union has a constitution despite the Lisbon treaty not being a constitution. Discuss.
4. Human rights and democracy have become the ultimate linking factors in the development of the European Union, and have led to addressing properly the problem of the democratic deficit. Discuss.

UNIVERSITY OF MALTA
FACULTY OF LAWS
LLD I (2010/11)
JUNE 2011 SESSION OF EXAMINATIONS

ECL 4004 – EU LAW ON STATE AID

WEDNESDAY 1st JUNE 2011

1.00PM – 2.00PM

ANSWER ONLY ONE QUESTION.

1. “Article 107(1) of the Treaty on the Functioning of the European Union (TFEU) has been given a broad interpretation by the Court of Justice of the European Union and the European Commission.” Examine this statement by reference to the conditions that must be satisfied for a measure to be classified as State aid. (100%)
2. Article 107(3) of the TFEU makes it possible for aid measures to be considered compatible with the internal market if they further certain policy objectives. Discuss. (100%)
3. Examine how the system of prior notification and authorisation enables the European Commission to monitor State aid effectively. (100%)

UNIVERSITY OF MALTA
FACULTY OF LAWS
JUNE 2012 SESSION OF EXAMINATIONS

ECL 4004 – EU LAW ON STATE AID

MONDAY 11 JUNE 2012

9:15AM – 10:15AM

ANSWER ONLY ONE QUESTION

1. To what extent does Article 107(1) of the Treaty on the Functioning of the European Union (TFEU) apply to situations where Member States invest in or aid undertakings within their territory? (100%)

Discuss. (100%)
2. ‘In the application of Article 107(3) TFEU, the European Commission seeks to ensure that only aid which promotes the objectives of the European Union and which does not frustrate the maintenance of the internal market is approved.’

Discuss. (60%)
3. a. ‘State aid control is achieved through the monitoring, investigative and enforcement powers of the European Commission.’

Discuss. (60%)

b. When can the EU State aid rules be applied in the national courts? (40%)

UNIVERSITY OF MALTA
FACULTY OF LAWS
LL.B. HONS. 4th YEAR *3 LL.D. II Year*
JANUARY 2017 EXAMINATIONS

EXAMINATION: ECL4008 – EU Law on State Aid

DATE: 27 January 2017, *Friday*

READING & NOTING TIME: 10.00AM to 10.05AM

DURATION OF EXAMINATION: 10.05AM to 11.05AM

INSTRUCTIONS TO STUDENTS:

Choose any ONE of the questions below. All questions and all sub-questions carry equal marks.

Writing is permitted during the Reading and Noting time.

‘TFEU’ refers to the Treaty on the Functioning of the European Union.

1. (a) Examine the notion of advantage within the meaning of Article 107(1) TFEU and explain how the market economy operator (MEO) test determines the existence or otherwise of State aid in economic transactions carried out by public bodies.

AND

(b) Article 107(1) TFEU applies when the advantage conferred ‘distorts or threatens to distort competition’ and ‘in so far as it affects trade between Member States’. Explain when these two elements are considered to subsist.

2. (a) ‘Article 107(1) TFEU does not cover every State measure which benefits all undertakings, but only those measures which favour certain undertakings or particular economic sectors.’ Explain this statement.

AND

(b) According to Article 107(1) TFEU the aid must be ‘granted by a Member State or through State resources’. Explain how this requirement has been interpreted by the Court of Justice of the EU and the European Commission.

Turn over.

3. Paragraphs (2) and (3) of Article 107 TFEU provide a number of exceptions to the prohibition in Article 107(1). Explain why the exceptions in Article 107(2) and Article 107(3) are distinct in nature and examine three important categories of aid falling within the scope of these exceptions.

4. Explain how the supervisory role conferred upon the European Commission by Article 108 TFEU and the procedures contemplated in *Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union* (the Procedural Regulation) ensure effective control by the European Commission of aid granted to undertakings by Member States.

END OF PAPER

UNIVERSITY OF MALTA
FACULTY OF LAWS
ECL4008 EU LAW ON STATE AID

Thursday, 1st February 2018

Duration of Examination: 8.30 a.m. to 9.35 a.m.

INSTRUCTIONS TO STUDENTS:

Choose any **ONE** of the questions below.

All questions and all sub-questions carry equal marks.

'TFEU' refers to the Treaty on the Functioning of the European Union.

1. (a) Examine the concept of 'economic advantage' within the meaning of Article 107(1) TFEU and explain the relevance of the 'market economy operator' (MEO) test in determining whether an advantage has been granted.
AND
(b) When is aid considered to have been granted through State resources and when is the measure considered to be imputable to the State?

2. (a) The favouring of certain undertakings or of certain sectors is an essential element for State aid to exist in terms of Article 107(1) TFEU. Explain when this element is considered to be satisfied.
AND
(b) When is aid granted by a Member State considered liable to distort competition and to affect trade between Member States?

3. Explain when the European Commission may consider compatible with the internal market State aid to promote the economic development of certain disadvantaged areas within the European Union on the basis of Article 107(3)(a) and (c) of the TFEU.

4. Article 108 TFEU enables the European Commission to control State aid by supervising new aid and keeping under constant review existing aid. Examine the different procedures that are in place to enable the European Commission to carry out this task.

UNIVERSITY OF MALTA

FACULTY OF LAWS

ECL4008 EU LAW ON STATE AID

Thursday, 6th September 2018

Duration of Examination: 10.00 a.m. to 11.05 a.m.

INSTRUCTIONS TO STUDENTS:

Choose any **ONE** of the questions below.

All questions and sub-questions carry equal marks.

'TFEU' refers to the Treaty on the Functioning of the European Union.

1. Consider the relevance of all of the following within the context of Article 107(1) TFEU:
 - (a) the notion of undertaking;
 - (b) the notion of economic advantage;
 - (c) effect on trade; and
 - (d) distortion of competition.

2. (a) When is an aid measure deemed to be imputable to the State and financed through State resources under Article 107(1) TFEU?
AND
(b) When is an aid measure considered to be selective under Article 107(1) TFEU?

3. Explain the distinction between paragraphs (2) and (3) of Article 107 TFEU and examine three important categories of aid falling within the scope of these paragraphs.

4. Examine the procedures that are in place to enable the European Commission to effectively supervise and control aid granted by Member States.