**ST MARY’S UNIVERSITY**

**TWICKENHAM, LONDON**

LLB, LLB with CRIMINOLOGY and BUSINESS LAW Degree Examination students registered for Level **FIVE**

Title: **Law of the European Union**

Code: **LAW5025**

Semester: **Resit**

Date: **02 July 2019**

Time: **13:30-15:30pm**

TIME ALLOWED: **TWO** HOURS

Answer three questions in total, including at least one from part A and one from part B.

**Part A**

1. Article 267 TFEU is a judicial mechanism for national courts always to refer matters of EU law to the Court of Justice of the EU. Critically discuss this statement.
2. Article 263 TFEU as interpreted by the Court of Justice of the EU enables EU citizens easily to annul acts of EU legislation. Critically discuss this statement.
3. State liability can be an effective remedy for EU citizens to ensure enforcement of EU law. Critically discuss this statement.

**Part B**

1. Biodinner is a French manufacturer of organic food products. It has recently decided to export to the UK market. In order to ensure the products are in good condition when they reach the shops in the Member States, certain measures are taken by Biodinner in the marketing of some product lines. All the ingredients of the products are listed on the packaging. Some Biodinner products are not 100% organic, although, in France, they can still be labeled as organic as long as 90% of the organic products contain organic ingredients. However, in the UK, only products made of 100% organic ingredients can be labeled as organic products. Biodinner found that the products were particularly popular in the UK and, for six months, sales boomed until the UK imposed a ban, justified on ‘public health grounds’, on the importation of any organic product not satisfying the 100% organic ingredient requirement. Following this, consignments of Biodinner's products containing organic ingredients were turned back at the frontier by the British authorities.

Meanwhile, consignments of organic products were subject to long delays at UK ferry ports whilst spot checks for health reasons were carried out. Payments were required for the inspections.

When Biodinner challenged the inspection fees, they were told that they are the equivalent of an internal tax imposed on domestic food products to finance a system of factory inspection in the UK organic food industry.

Advise Biodinner as to its rights under EU law.

1. Viktoria, a Polish citizen, has moved to Germany to take up a position as a chemist at the research centre for chemistry at the University of Berlin. She is accompanied by her boyfriend Vladimir, also a Polish national, who is looking for a job in Germany as a waiter. Viktoria is expecting a child in the next few months. She claimed maternity payments and Vladimir claimed unemployment benefits. However, both claims have been rejected by the Berlin authorities as neither Viktoria nor Vladimir are German nationals and both have been residing in Germany for less than one year. Moreover, because they are not engaged to be married, the German authorities have issued a deportation order against Vladimir who is a job-seeker and financially dependent on Viktoria.

Advise both Viktoria and Vladimir as to their EU citizens' rights under EU Law.

1. In 1999, Maria, a Brazilian citizen, moved to Spain to seek asylum because she was in danger in her home country. Spain granted her, and her husband Juan, asylum in order to stay permanently in Spain, since they were unable to return to Brazil. Maria took up employment as a waitress in 2000. Her husband set up a successful car company. They have two daughters, Eva and Lisa, born in 2002 and 2005 respectively. The two daughters are Spanish nationals, attend local schools and have become friends with other teenagers.

Juan has, on a regular basis, always requested and been granted work permits without any difficulty. But, in 2018, the Spanish authorities refused to renew his work permit and issued a deportation order for Juan to be sent back to Brazil. The family is astonished and upset by this decision, as they no longer have any ties with Brazil and all their professional and familial interests are now in Spain. Furthermore, Eva and Lisa have never lived in Brazil and their parents do not want to be separated from their daughters. They seek advice under EU law, as Eva and Lisa are EU citizens despite neither of their parents having EU citizenship.

Advise the parties of their rights under EU law.

**END OF EXAMINATION**