

Please read the hypothetical case and answers the questions below

### **HYPOTHETICAL CASE FMG**

EU Member State Trezvenija appreciates sobriety and with that purpose it adopted several measures that have not been regulated by secondary EU law.

Primarily, experts have noticed that high-school students consume alcohol despite the ban of selling alcohol to those younger than 18 years. Namely, high-school students (younger than 18) consume large quantities of chocolates «Alkolada» that have a fruit liqueur filling, and these are produced in another EU Member State, Pijanija. Trezvenija decided to react to these expert findings and it banned the importation of «Alkolada» chocolates. Furthermore, in Trezvenija, all alcoholic drinks containing more than 30% alcohol are banned, and it is also prohibited to advertise alcoholic drinks with more than 10% alcohol.

Ana was the owner of a delicacies store in Trezvenija. Until recently, her most sold products have been products imported from other Member States, including chocolates «Alkolada», alcoholic drink «Totalka» with 40% alcohol, and a liqueur «Mašta» with 15% alcohol. However, since Trezvenija introduced three abovementioned measures, total sales in Ana's store have dropped.

Marko is a citizen of Pijanija who is residing in Pijanija as a worker. Trezvenija has initiated criminal proceedings against him because he has imported the alcoholic drink «Totalka» from Pijanija. The sanctions for this criminal offence are a pecuniary fine and the prohibition to work in Trezvenija for one year.

#### **1. Trezvenija's chocolate import ban is:**

- a) a measure having equivalent effect to a quantitative restriction;
- b) a measure significantly hindering access to Trezvenija's market;
- c) a measure regulating selling arrangements;
- d) out of the scope of EU law.

#### **2. Relevant case/s for determining the compatibility of the import ban with EU law is/are:**

- a) Walrave and Koch;
- b) Cassis;
- c) Bosman;
- d) Defrenne.

#### **3. Relevant source for assessing the import ban is:**

- a) the Croatian Stabilization and Association Agreement;
- b) Article 34 TFEU;
- c) only the Treaty on the European Union, and not the Treaty on the Functioning of the EU;
- d) Article of the SAA containing mirror provisions.

**4. The burden of proof that:**

- a) the measure is incompatible with EU law is on the trader who challenges the measure;
- b) the measure is incompatible with EU law is not on the trader who challenges the measure because there is a principle of mutual recognition according to which any product lawfully produced and marketed in one member state must be allowed on the market of another member state, and if it is denied such access, then there is presumption that a measure is contrary to EU law;
- c) the measure is justified is on Trezvenija;
- d) the measure is not justified is on Ana.

**5. The «Alkolada» import ban:**

- a) cannot be justified because it is distinctly applicable;
- b) can only be justified by invoking Art. 36 TFEU and if it would pass the proportionality test;
- c) does not have to be justified because it is out of the scope of EU law;
- d) none of the above.

**6. Measure banning alcoholic drinks with more than 30% of alcohol:**

- a) is a quantitative restriction;
- b) significantly hinders market access;
- c) is distinctly applicable;
- d) is in the scope of EU law.

**7. A measure which is in the scope of Art. 34 TFEU, can be justified:**

- a) by reasons listed in Art. 36 TFEU;
- b) on the basis of the justification grounds mentioned in the Treaty if the measure is indistinctly applicable;
- c) only on the basis of mandatory requirements if the measure is indistinctly applicable;
- d) by the need of protecting domestic production.

**8. A justification that could be invoked as a legitimate aim for banning alcoholic drinks with 30% alcohol is:**

- a) protection of the domestic industry of high quality alcoholic drinks;
- b) health protection;
- c) stimulation of consumption of alcoholic drinks with less alcohol in restaurants and bars so as to increase revenue from tourism;
- d) protection of national culture.

**10. If the ban of alcoholic drinks with 30% alcohol has a legitimate aim:**

- a) then it is certainly justified;
- b) then it is not in the scope of the Treaty;
- c) then it has to pass the test of suitability / appropriateness;
- d) then it only has to pass the necessity test.

**11. The proportionality test for the ban of alcoholic drinks with 30% alcohol could be conducted by:**

- a) the European Court of Human Rights;
- b) Court of Auditors;
- c) Trezvenija's national court;
- d) only by Trezvenija's minister of health.

**12. The ban on advertising alcoholic drinks with more than 10% alcohol:**

- a) cannot be in the scope of Art. 34 TFEU because it regulates advertising and not goods;
- b) can be in the scope of Art. 34 TFEU if it significantly hinders market access;
- c) can be assessed only from the perspective of the right of establishment of advertising agencies;
- d) does not have to be justified because it is not in the scope of any freedom.

**13. For determining whether the advertising ban is a product requirement or a selling arrangement, relevant case/s is/are:**

- a) Van Gend en Loos;
- b) Keck;
- c) Bosman;
- d) Familiapress.

**14. Market freedom that Ana would like to invoke:**

- a) has no direct effect;
- b) has direct effect only in vertical situations;
- c) has only indirect (interpretative) effect and no direct effect;
- d) must be protected by national courts.