

# The background of fadbury law european essay

Law



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A directive is a legislation in the EU alongside regulations and treaty provisions, it is also secondary law. Directives are aimed to a member states and they are required to achieved results that have been specified, directives are not directly applicable this means that member state have implement the law, before it because a part of the law in a member state, in the ' treaty on the functioning of the European union' article 288 states that " A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.". Directives can also have a direct effect which is when the provision can have an effect on the member state and its citizens, the case of Van Duyn v Home Office [1974], Van Duyn was refused leave to enter the united kingdom on the grounds that she was undesirable, she was originally from Dutch and was a practising scientologists, Van Duyn was relying on article 48 of the treaty that allowed free movements of workers in the EU, it was held that directives should be allowed to be used by defendant in national courts otherwise it would be weakened. In the case of Publico Ministerio v Ratti [1979], the defendant sold chemicals and labelled them with two directives, that had not been implemented by the Italian government yet, the defendant was prosecuted for not labelling in line with the existing Italian law, the European court of justice held that if a state doesn't implement a directive then individuals can enforce the directive by themselves. This case shows that directive that has not been implemented can active after the implementation date has past, this means that directive can still have a direct effect even though the implantation date has past. The internal market is ' an area without internal frontiers in which the free movement of goods, persons, services and capital

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is ensured in accordance with the provisions of this treaty' according to article 26 TFEU. In the internal market there's is economic integration which is the Involvement of participating economies, but to different extents and it can take a variety of forms but in particular the Free Trade Area, which is where member states agree to remove all obstacles to trade between themselves, but different member states retains autonomy to decide how they trade with non-M. S and also Common Market which is the free trade area and the customs union and free movement of persons, services and capital it also Includes the factors of production. Article 3 of the directive provides that the use of vegetable fats other than cocoa butter is prohibited in the manufacture of chocolate products, goods made from 100% cocoa butter enjoy the right to free movement under the directive. Fdabury have 95% of cocoa butter in their products so they do not get to enjoy the right to free movement under article 3 of the directive even though the internal market says otherwise so the nation rules is an obstacle to the internal market, divergence between national standards and between member states means that any goods, unless lawfully produced and marketed in a member state may not gain access to another unless the producer complies with the standards of the member state in which they now wish to also sell their goods. In order for Fdabury to be able sell their product in the member states and especially Italy, Spain and UK they would have to comply with their nation rules, for example, if Fdabury want to sell their product in Italy they would have to comply with Italy's national measures which is ' that chocolate products containing vegetable fats other than cocoa butter must be clearly labelled as ' chocolate substitute', Fdabury would have to label their product to chocolate substitute in order for them to move their product

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from their own member state to another. If the UK consider banning the use of vegetable fats other than cocoa butter in chocolate products then Fadbury's goods would be subject to dual regulatory burden which means that Fadbury would have to comply with the regulatory standards of their own member state and also the one in which they want to import to, As long as Fadbury complies with the Eu standard they are guaranteed free movement in all member states and dual regulatory burden is then removed. In conclusion Fadbury would have to comply with the member states measures in order to have free movement and they need not worry as long as they comply with the member states measures.