



Faculty of Law

**EXAMINATION IN THE COURSE
INTERNATIONAL SALES LAW
JUR-3601**

Spring 2008
21 – 25 April 2008

Question 1

In November 2006 a Tromsø-based wine-import company, WinNor AS, and an Austrian wine-producer, Wiwein AG, from Vienna concluded a 5-year sales contract for Austrian wine for further distribution to the Nordic market. WinNor AS had agreed to buy 10.000 bottles of white wine (Riesling) per month for the price of 25.000 Euros. According to the contract, the wine was to be delivered FCA Wien (Incoterms 2000) the first day of each month. The payment was to be made partially in advance (50 % paid at the time of the dispatching of the goods) and the rest within one week from the delivery.

The first year of monthly deliveries went well, but since the delivery in January 2008 the quality of wine was severely compromised and WinNor AS has declined to pay the second half of payment for those deliveries. In February 2008, the contract parties agreed to engage a third-party to investigate the cause for the quality problems. According to the report from the inspection company, the wine wax used by Wiwein AG to nurse their wine was faulty, which made the wine highly vulnerable for even very short-term temperature changes above the storage temperature recommended by the wine producer. The inspection further revealed that the cooling system in the semi-trailer of the transport company responsible for the transport of the goods from Vienna to Norway was faulty, which had caused the transport temperatures to occasionally raise above the recommended storage temperature for the wine for periods of 15-20 minutes at a time. Immediately after the inspection report came in, the Norwegian company informed the transport company they had relied on, about the problem with the faulty cooling system, which has now been repaired. The contract parties were however unable to come to an agreement on the issue of the payments withheld by the Norwegian company.

In March 2008 Wiwein AG brought a claim to arbitration, according to the arbitration clause that was attached to the contract. According to Wiwein AG, WinNor AS has breached the contract and must immediately make the remaining payment for the delivered goods and to provide a bank-guarantee for future payments equalling 50.000 Euros.

The Tromsø-company has now turned to you and asks for legal advice. Explain the legal position that the WinNor AS has and give your recommendation on the legal options that they have in solving the problem.

Question 2

How could the problems in the sales contract described in Question 1 have been prevented and managed contractually?

ANSWER BOTH QUESTIONS

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The paper is to be answered in English.

Two copies of the paper must be submitted to the Information for students, 2nd floor, by Friday 25 April at 3 pm at the latest. One copy of the paper must be sent by email to the following address: elektronisk_innlevering@jus.uit.no

Preliminary examination results will be published at 2 pm on Thursday 15 May at the Information for students, 2nd floor (tel. +47 77 64 41 97). Oral examination of candidates who pass the written examination, will take place Friday 16 May. Time and place will be announced together with the preliminary examination results. The oral examination will take approximately 30 minutes.

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21 April 2008


Per Christiansen

Head of the Examination committee

Guidelines for take-home examinations in the Master's Degree Programme in Jurisprudence Master's Degree Programme in Jurisprudence, UiT

The assignment must be an independent piece of work. Source references must be precise and re-checkable.

Independence

The requirement for an independent piece of work implies that all decisions relating to the assignment and the formulation of the wording is the candidate's own work. It is against the regulations concerning independence for another person to write your assignment in full or part, or for you to write another candidate's assignment in full or part. Quoting or reproduction of legal literature or other legal sources without source referencing, so that the arguments and views appear to be those of the candidate, is also forbidden.

Candidates are permitted to discuss their take-home examination with other people, including fellow candidates, including discussions relating to specific facts, utilisation of the assignment and various legal questions the assignment raises.

Collaboration which results in identical answers in full or part is not permitted. Plagiarism of other people's work is regarded as cheating and may lead to reactions in accordance with Sections 4-7 and 4-8 of the Act regarding universities and university colleges.

Source references

All written take-home examinations must contain source references which are as precise as possible. References to and quotations from judgements, preliminary works, books or articles shall normally state the exact title, edition, year of publication and page number. References to the exact sources must also be utilised when reproducing arguments and views from particular sources. Attaching a reference or literature list as an appendix is insufficient.

Missing source references which provides reason to believe the candidate is attempting to give the impression the something obtained from another source is their own work is a breach of the independence requirements and may be regarded as cheating, with reference to Sections 4-7 and 4-8 of the Act regarding universities and university colleges. Missing or inadequate source referencing, which makes it difficult to verify the accuracy of the stated material, will result in a lower grade being awarded even though there is no reason to believe cheating is involved.

Adopted by the Academic Affairs Committee 14.02.07 – SU (case 17-07)