



SOCIAL POLICY OF THE EUROPEAN UNION AND THE FOUR FREEDOMS OF MOVEMENT WITHIN THE UNION

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ABSTRACT

The analysis of the four freedoms of movement requires prior clarification of some basic concepts included in the documents of the EC. According to Article 2 of the TEC the supra-national organization aims to promote the development of economic activities, constant growth of not inflationary environmental activities, high level of employment and social protection, raising standards of living and quality of life and economic and social cohesion between the Member - States. To achieve these objectives, it is necessary to build a common market and Economic and Monetary Union of the Member - States. It is necessary to abolish customs duties and quantitative restrictions on imports and exports and all measures with equivalent effect between the Member - States. Common Market is therefore a common economic space of the Member - States of the Community within which economic agents can operate freely, while respecting the rules of the European legislation governing the four fundamental freedoms of movement of goods, persons, services and capital.

Key words: economic activities, imports and exports, Customs Union

I. Free movement of goods.

The purpose of the provisions dealing with free movement of goods is connected with the creation on the territory of the Member - States of the Community of a Common Market free of internal restrictions on trade and forming a single trading block in the relations with the outside world. In this regard, TEC provides for the establishment of the customs union and removal of quantitative restrictions on imports and exports and all measures with equivalent effect.

The provisions on free movement of goods apply equally to industrial and agricultural products from the member states, on one hand, and the products of third countries – non-member States entered into free circulation within the Community, on the other hand. The latter is considered fulfilled if the import formalities have been completed and any duties and taxes are collected in the Member – State where the product has entered the Community for the first time.

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Customs Union.

Free movement of goods is associated primarily with the establishment of a customs union. The concept comprises two main elements - a ban on import and export duties and charges with equivalent effect between Member - States and a common customs tariff in relations with third countries.

1. Common Customs Tariff

The second element of the Customs Union - Common Customs Tariff, suggests a common trade policy in relations with third countries – non-EU states. Common Customs Tariff provides equal treatment for goods from third countries and an opportunity for such goods to benefit from the free circulation system equal to the one for goods manufactured within the EC. It applies to all products imported from outside, and no Member - State can not deviate from its requirements.

2. Harmonisation of laws

In connection with the state of market relations and in connection with the development of judicial practice in the early 80's the European Commission implemented a new approach to harmonization of national legislation in Member States. EC efforts are focused on separate priority sectors due to their economic

importance in creating the Common European Market.

If, after the adoption of convergence measures by the Council voted by qualified majority, a Member - State considers it necessary to apply its national legislation for important reasons or relating to the environment or working conditions, it shall inform the Commission of its provisions. Commission confirms provisions after verifying that they are not a means of unjustifiable discrimination or a disguised restriction on trade between Member - States.

II. Free movement of persons

In establishing the European Economic Community Treaty in 1957 the intention of its authors is to have free labor movement in the common market, as it is a factor of production. Therefore, in the original version of the Treaty provides for free movement of workers, i.e. persons who work under labor contracts. To this freedom the right of residence of individuals engaged in private business (the professions) as well as legal persons was added.

1. Free movement of workers

The provisions on free movement of workers in the TEC are contained in Part III, Section III, Chapter I – Article 48 to 51. Along with these basic rules there are a number of secondary legislation acts.

2. The Concept of worker.

EC Treaty and secondary legislation does not contain a definition of "worker" under labour contracts. According to the Court of the concept is subject to Community law and Member - States may not define it independently - otherwise free movement of workers may be hampered because of different definitions for workers in different Member - States.

Worker is a person who is required to perform work for another person against cash compensation and is subject to the management and control of that other person in respect of how to conduct the work. According to the same decision the relationship must satisfy three basic requirements:

- A) the work to be "genuine and effective".
- B) the person receives remuneration.
- C) The work is carried out at the expense of another person and under his direct command and control.

3. Content of free movement of workers.

Art. 48 TEC explicitly repeats one of the essential requirements of the Treaty regarding workers - the prohibition of discrimination based on nationality. The actual scope of freedom of movement for workers is outlined in Article 48,

paragraph 3 TEC. Under that provision, freedom of movement includes four elements:

- A) the right to accept proposals for actual employment;
- B) the right to move freely within the territory of the Member - States.
- B) right to freedom of residence in the host member - State with regard to starting work there;
- D) the right to remain in the host Member State after termination of employment.

A. Entry and residence on the territory of another Member - State.

Nationals of the Member - States, traveling to commence or carry out work under an employment contract can move within the Community with only providing a valid identity document. The same applies to families of workers. Exit and entry visas may be introduced only in exceptional cases, where necessary for reasons of public order, or when family members are not nationals of a State - State of the EC. According to the Court the requirement for the person to start work in 6 months or if a contract was concluded - to seek another job, is reasonable.

With regard to residence, the host country is obliged to grant a stay of the worker and his family members after the presentation of several explicitly listed documents. Permits are issued for five years and are prolonged automatically.

Three groups of discriminatory restrictions are prohibited:

- A) restrictions on recruitment
- B) restrictions on the actual performance of work.
- C) no discrimination against family members.

The host country shall facilitate the admission of family members within its territory. Moreover, those persons are entitled to start economic activities themselves, and children of workers have access to schools for education on a par with their peers - citizens of the host country .

B. Rights to Social Security.

TEC provides two basic principles in respect of social security to workers who work in another Member - State.

- principle of cumulation: when considering whether a worker can acquire or preserve the entitlement to payments from social security funds and when calculating the amount of benefits, the contributions made during all periods of his employment in all countries where he has worked, shall be taken into consideration.

- Principle of portability: the benefits are paid from the Member - State in which the person lives (regardless of whether he is its national). In other words, wherever a worker goes in the Community, he does not lose his rights relating to social security, and they "move" with him.

III. Free movement of services

The main provisions on free movement of services are in Article 59 to Article 66 TEC.

The concept of service.

The service is an activity normally provided for remuneration, if not covered by provisions on free movement of goods, capital and persons " .

There are two major characteristics of services. First, they are performed " for remuneration", ie here again it comes to business. Secondly, the rules for services are applicable only when it is not possible to apply rules on free movement of goods, capital and persons. For services residence is of temporary nature - the supplier or recipient of service reside on the territory of another Member - State only while carrying out or using the service. Sometimes it is even possible supplier or customer not to move, but the service "to cross the border" - as for advice given by telephone.

1. Effects of norms in respect of persons

According to Article 59 TEC rules apply to services in respect of nationals of the Member - States who are established in the country – member of the Community. The rules for services under the same conditions can be used and companies or firms registered under the laws of the Member - State and having their registered office, central administration or principal place of business in the Community (Article 66 in conjunction with article 58 TEC). The requirement of citizenship of the Member - State applies only to the service provider.

2. Content of free movement of services.

EC Treaty regulates the rights of persons entitled to temporarily pursue their activity in the country where they offer the service on the same terms as that country apply to its own nationals. Like all other freedoms, here non-discrimination is essential as well. It applies equally to providers and recipients of services.

3. Free movement of financial services.

Under Article 61, paragraph 2 TEC "liberalization of banking and insurance services connected with the movement of capital takes place together with the gradual liberalization of capital movements.

The principle of single license is coupled with the principle of control. That means the supervision of the activities of credit institutions

and insurers throughout the internal market is carried out by the competent authorities of the country in which the institution was established and licensed.

4. Exceptions to the freedom to provide and receive services.

This means that the free movement of services may be limited for the same reasons as the right of establishment - for reasons of public policy, public security or public health and for activities which are associated even occasionally with state functions.

Problems can arise when providing a service is allowed in some Member - States and prohibited in others. Persons who wish to receive this service can benefit from free movement under the EC Treaty and to go to the country in which the service is lawful.

IV. Free movement of capital.

The importance of free movement of capital is greater because other economic freedoms which constitute the basis of the European internal market cannot function without the respective liberalization of financial transactions. Moreover, the establishment of an integrated European financial market requires the removal of restrictions on cross-border movement of capital and money and ensuring equal conditions for investment financing throughout the EC. The Member - States shall be obliged to liberalize the payments associated with the movement of goods, services and capital, and to authorize transfers of capital gains and wages for labor in the extent to which according to the requirements of TEC liberalization of the movement of goods, services, capital and others have been achieved between the Member - States.

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