

concerning § 4 - § 9 of the Course

Diagram 1 The Fundamental Freedoms - an Overview

free movement of goods (art. 23 et seq., 90 et seq. EC Treaty)	freedom to provide services (art. 49 et seq. EC Treaty)	free movement of persons (art. 39 et seq., 43 et seq. EC Treaty)	free movement of capital (art. 56(1), 57 et seq. EC Treaty)	free movement of payments (Art. 56(2), 58 et seq. EC Treaty)	freedom of movement and residence (art. 18 EC Treaty)
<p>(cross-border mobility of goods)</p> <p>1) free movement of goods unhindered by tariff barriers</p> <ul style="list-style-type: none"> • no customs (art. 23, 25) • noch charges having equivalent effect to customs (art. 23, 25) • no higher internal taxation than on domestic products (art. 90 sub-sect. 1) • no internal taxation protecting other products (art. 90 sub-sect. 2) • no exceeding repayment for taxation after export of products (art. 91) <p>2) free movement of goods unhindered by non-tariff barriers</p> <ul style="list-style-type: none"> • no quantitative restrictions on imports (art. 28) • no measures having equivalent effect to quantitative restrictions on imports (art. 28) <ul style="list-style-type: none"> - very large concept (→ <i>Dassonville</i>) - includes regulations on necessary properties of products (→ <i>Cassis de Dijon</i>) - but not regulations on the general conditions of sale (→ <i>Keck</i>) • no quantitative restrictions on exports (art. 29) • no measures having equivalent effect to quantitative restrictions on exports (art. 29) 	<p>(cross-border mobility of services, service providers, service recipients)</p> <p>1) freedom to provide services in another member state (aktive Dienstleistungsfreiheit)</p> <p>2) freedom to receive services in another member state (passive Dienstleistungsfreiheit)</p> <p>3) freedom to provide/receive cross-border services (Korrespondenzdienstleistungsfreiheit; only the service crosses the border)</p> <p>4) freedom to provide/receive services while crossing the border together (for example tourists and tourist guide)</p>	<p>(cross-border mobility of gainful occupation)</p> <p>1) free movement of workers</p> <ul style="list-style-type: none"> • free access to work (art. 39(3)) <ul style="list-style-type: none"> - freedom to accept offers (lit. a) - free movement for seeking employment (lit. b) • free exercise of employment (art. 39(3) lit. c) • residence after termination of employment (art. 39(3) lit. d) • same social and tax privileges as domestic employees (secondary law) • rights of family members (according to secondary law) • does <i>not</i> concern <i>students</i> <p>2) freedom of establishment</p> <ul style="list-style-type: none"> • freedom to take up and pursue activities as self-employed persons (art. 43 sub-sect. 1, 2) • freedom to set-up and manage undertakings (art. 43) <ul style="list-style-type: none"> - also to form transnational trusts and to shift domiciles • freedom to set-up agencies, branches, subsidiaries, factories etc. (art. 43 sub-sect. 1 phrase 2) <ul style="list-style-type: none"> - also to chose the member state for the headquarters 	<p>(cross-border mobility of monetary or material assets)</p> <p>1) free transfer of monetary assets</p> <ul style="list-style-type: none"> - of cash - of foreign currency - of bonds and securities - of stocks and shares in companies - of loans - of securities for loans (eg guaranties, sureties) <p>2) free transfer of material assets</p> <ul style="list-style-type: none"> - incl. acquis. of real estate <p>(including transfers with private background such as gifts, inheritances, legacies, transfers to the native country etc.)</p>	<p>(cross-border mobility of payments)</p> <ul style="list-style-type: none"> • free transfer of payments in return for performance <p>(necessary annex to the other fundamental freedoms)</p>	<p>(non-economic mobility)</p> <ul style="list-style-type: none"> • free movement in the member states <ul style="list-style-type: none"> - including free entry • free residence in the member states • only a <i>complementation</i> of the fundamental freedoms • organised by secondary law • also for students and senior citizen