



LUND UNIVERSITY
Faculty of Law

The Economic Freedoms

Module 2

Reading materials

Lectures

- The Free Movement of Capital
- The Free Movement of Services
- The Free Movement of Goods
- The Free Movement of People
- The Right to Establishment
- The Right to Establishment - Case Law

Case law

Lecture: Free movement of capital

- **C-163/94** – Sanz de Lera
Capital movements - Non-member countries - National authorization for the transfer of banknotes.
- **C-302/97** – Konle
- **C-370/05** – Festersen

Lecture: Free movement of services

- **C-33/74** – van Binsbergen
Establishes the direct applicability of the prohibition on discrimination in respect to the provision of services.
- **C-55/94** – Gebhard
Establishes the so called Gebhard test, which lays out the criteria that need to be fulfilled in order to permit a restriction of the freedom of movement of services.

Lecture: Free movement of goods

- **C-120/78 – Cassis de Dijon**
Establishes the principle of mutual recognition.
- **C-8/74 – Dassonville**
Establishes that all trading rules enacted by Member States which are capable of hindering, directly or indirectly, actually or potentially, intra-Community trade are to be considered as measures having an effect equivalent to quantitative restrictions.
- **C-249/81 – Buy Irish**
Establishes that state support for campaigns that urge purchasing of domestic goods can constitute an unlawful trade barrier.
- **C-265/95 – Spanish Strawberry Case**
Establishes that the failure of French authorities to act to protect Spanish lorry drivers from sabotage by local activists constitutes a failure to fulfil its obligations under the under Art 34 TFEU to ensure the free movement of goods.
- **C-267/91 – Keck**
Establishes the Keck Doctrine, ascertaining that certain nondiscriminatory actions, such as limiting opening hours of stores etc, should not fall within the scope of Art 34 TFEU.

Lecture: Free movement of people

- **C-149/79 – SNCB**
- **C-202/90 - Ayuntamiento de Sevilla vs. Recaudadores de Tributos de las Zonas primera y segunda**
- **C-405/01 - Colegio de Oficiales de la Marina Marcante Española vs. Administración del Estado**
- **C-47/02 - Albert Anker, Klaas Ras and Albertus Snoek**

Lecture: The Right to Establishment

- **C-81/87 – Daily Mail**
Establishes that the freedom of establishment does not confer to companies a right to transfer their central management and control to a Member State while retaining its status as incorporated in the home Member State.
- **C-212/97 – Centros**
Establishes that any barriers by the host Member State against companies incorporated in another requiring setting up a secondary establishment there are prohibited.
- **C-208/00 – Überseering**
Establishes the right of a corporation formed in an EU Member State to move its real seat from its state of incorporation to another EU member state without losing its legal status as a corporate entity under the law of its origin state.

- **C-167/01 – Inspire Art**

Establishes a prohibition on Member States to impose legal obligations on companies that are incorporated in another Member State but conducts their business activities only in another state.

Reaffirms the Überseering ruling.

Establishes a prohibition on Member States to impose legal obligations on companies that are incorporated in another Member State but conducts their business activities only **in Netherlands**.

In this case, more comparable to Centros, the CJEU decided, once again, in favor of the freedom of establishment.

- **C-210/06 – Cartesio**

Reaffirms the Daily Mail ruling.

- **C-378/10 – Vale**