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Jean Monnet Chair

EU Institutions, Rights and Judicial Integration

Questions and Answers about

Free movement of Goods

Nikolaos Gaitenidis



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1. What is the legal basis for the free movement of goods within the EU?

Answer:

The legal basis is found in Articles 28–37 of the Treaty on the Functioning of the European Union (TFEU). These articles aim to eliminate trade barriers between EU Member States and establish the free movement of goods as one of the four fundamental freedoms of the single market.

2. What are “measures having equivalent effect” as defined in EU law?

Answer:

According to the Dassonville case, “measures having equivalent effect” are any national rules that can directly or indirectly hinder intra-EU trade, even if they apply equally to domestic and imported products.

3. What principle was established in the Cassis de Dijon case?

Answer:

The Cassis de Dijon case introduced the principle of mutual recognition, stating that products legally manufactured and marketed in one Member State should be allowed in others, unless justified by overriding public interest reasons.

4. What types of restrictions are permitted under EU law despite the general rule of free movement?

Answer:

Restrictions can be allowed on grounds such as:

- Public morality, public order, or public security
- Protection of health of humans, animals, or plants
- Protection of national treasures
- Environmental protection

However, such restrictions must comply with the principle of proportionality.

5. How does the EU differentiate between product rules and selling arrangements?

Answer:

The Keck and Mithouard ruling clarified that:

- Rules that affect the characteristics of the product itself fall under free movement scrutiny.
- Selling arrangements, like rules about when or where a product can be sold, are generally not restricted unless they are discriminatory in effect.