

MULTI-LEVEL GOVERNANCE WEEK 2

- ➔ Negative harmonization is something that the EU wants to avoid. → They created the one market system.
- ➔ EU = one open market with free competition.
- ➔ Positive obligations VS negative obligations

= because of the open free market member states are prohibited to put custom duties or taxes on imports/exports. → Quantitative restrictions are prohibited.

- ➔ Any national commercial norm that obstructs (potentially or not) cross-border trade, is a measure having equivalent effect to a quantitative restriction. => from anti-discriminatory to pro-competitive and liberalizing rule.
- This system allows the countries to respect their own law since it is equivalent to the country where they are operating.
- ➔ MUTUAL RECOGNITION OF SERVICES is one of the most important points.
- It allows companies to offer services and have the law of its country of origin recognized abroad.
- ➔ THE PRINCIPLE OF FREE COMPETITION = any action that prevents, restricts or distorts competition is prohibited.

MULTI-LEVEL GOVERNANCE WEEK 3

- ➔ The EU market doesn't prohibit monopolies. It only discourages abuses with the dominant position that companies can have.
- In the 90s the matching of companies w/ the unemployed (supply-demand) was only provided by public job centers. → The companies started to complain because of incompatibility with EU regulation.

After the 90's a wave of privatization started in Europe. The reason was that they wanted to meet the needs and demands of the public that was not always efficiently provided by the public sphere only.

Since we have different needs then the limiting of the free competition has to prove that these limits are proportional to the public needs that the state wants to guarantee.

The result is: transforming competition rules from private law to public law by the ECJ.

Ex: until the 90s the transport system was provided by public undertakings / or / posteitaliane used to be public meanwhile nowadays we have a lot of private undertakings doing the same job.

- ➔ **AIDS GRANTED BY STATES** that might favor some undertakings more than others or that in any way distort the competition are **incompatible** with the common market.

If it is part of any national law, then considering supremacy of EU law to any national law, then this latter one should be abolished.

Some **compatible national aids include:**

- a. Aids having a social character;
- b. Aids to help with natural disasters or other exceptional occurrences;
- c. Aids granted to the economy of some German cities for problems caused by the German division.

The **Commission and the Council may authorize:**

- a. Aid to promote economic development
- b. Aid to promote the execution of important projects of common European interest;
- c. Aid to facilitate the development of certain economic activities;
- d. Aid to promote culture or heritage conservation;
- e. Other categories that are taken by a majority of the Council with a proposal from the Commission. (ASK PERMISSION)

!! These aids are only directly or indirectly given towards companies and undertakings not individuals**!!**

➔ It is compatible with EU law if a country decides to reduce taxes for all companies, but if they decide to lower taxes only for a specific company then that is qualified as state aid. In this case, there is a bias of distribution and therefore a direct distortion of fair competition.

TOPIC 3

➔ The instrumental aim of the ECT social provisions was to reach economic objectives.

⇒ By creating a non-inflationary economic growth and a competitive market they could guarantee and secure good conditions of employment for the citizens.

- In protecting the security of human and social rights the EU law on economic markets was prevailing the national laws.

⇒ Article 6 of the Treaty of EU is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms.

- The Union respects **fundamental human rights** as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms. = They also result in the constitutions of all Member states as a general principle of the Community law.
- The right to strike means that the employee has the right to express his dislike and face no consequences from the higher ups (consequences in the contractual relationships).
- ➔ The difference between the **individual freedoms** and the **social rights** is that the freedoms require just the **abstention** of the state meanwhile the social rights require the **intervention** of the state in order to be guaranteed.
- ⇒ The community and the member states, keeping in mind the fundamental social rights, shall have as objectives the promotion of employment, improved living and working conditions in order to harmonize and improve a proper social protection.
- ⇒ In 2008 the Treaty of Lisbon incorporated the Charter of Nice as a functioning treaty of EU. However the provision of the Charter shall not extend the competences of the Union as defined in the Treaties. = the rights, freedoms and principles of the Charter shall be interpreted in accordance with the general provisions of the EU treaty.