

## Consolidated version of the Treaty on the Functioning of the European Union

### PART THREE

#### UNION POLICIES AND INTERNAL ACTIONS

#### TITLE IV

#### FREE MOVEMENT OF PERSONS, SERVICES AND CAPITAL

#### CHAPTER 4

#### CAPITAL AND PAYMENTS

##### *Article 63*

##### **(ex Article 56 TEC)**

- 1 Within the framework of the provisions set out in this Chapter, all restrictions on the movement of capital between Member States and between Member States and third countries shall be prohibited.
- 2 Within the framework of the provisions set out in this Chapter, all restrictions on payments between Member States and between Member States and third countries shall be prohibited.

##### *Article 64*

##### **(ex Article 57 TEC)**

- 1 The provisions of Article 63 shall be without prejudice to the application to third countries of any restrictions which exist on 31 December 1993 under national or Union law adopted in respect of the movement of capital to or from third countries involving direct investment – including in real estate – establishment, the provision of financial services or the admission of securities to capital markets. In respect of restrictions existing under national law in Bulgaria, Estonia and Hungary, the relevant date shall be 31 December 1999. [F<sup>1</sup>In respect of restrictions existing under national law in Croatia, the relevant date shall be 31 December 2002.]
- 2 Whilst endeavouring to achieve the objective of free movement of capital between Member States and third countries to the greatest extent possible and without prejudice to the other Chapters of the Treaties, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures on the movement of capital to or from third countries involving direct investment – including investment in real estate – establishment, the provision of financial services or the admission of securities to capital markets.
- 3 Notwithstanding paragraph 2, only the Council, acting in accordance with a special legislative procedure, may unanimously, and after consulting the European Parliament, adopt

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*Status: This is the revised version from EUR-Lex dated 01/03/2020. There are no timeline of changes available for treaties, instead, previous dated versions from EUR-Lex (as pdf from 1992 onwards) can be accessed via the More Resources menu. This treaty has changed its name over time, originally signed in Rome in 1957 as the Treaty establishing the European Economic Community (The Treaty of Rome) then becoming Treaty establishing the European Community. Its title is now Treaty on the functioning of the European Union.*

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measures which constitute a step backwards in Union law as regards the liberalisation of the movement of capital to or from third countries.

#### Textual Amendments

- F1** Inserted by [Act concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community](#).

#### Article 65

##### (ex Article 58 TEC)

- 1 The provisions of Article 63 shall be without prejudice to the right of Member States:
  - a to apply the relevant provisions of their tax law which distinguish between taxpayers who are not in the same situation with regard to their place of residence or with regard to the place where their capital is invested;
  - b to take all requisite measures to prevent infringements of national law and regulations, in particular in the field of taxation and the prudential supervision of financial institutions, or to lay down procedures for the declaration of capital movements for purposes of administrative or statistical information, or to take measures which are justified on grounds of public policy or public security.
- 2 The provisions of this Chapter shall be without prejudice to the applicability of restrictions on the right of establishment which are compatible with the Treaties.
- 3 The measures and procedures referred to in paragraphs 1 and 2 shall not constitute a means of arbitrary discrimination or a disguised restriction on the free movement of capital and payments as defined in Article 63.
- 4 In the absence of measures pursuant to Article 64(3), the Commission or, in the absence of a Commission decision within three months from the request of the Member State concerned, the Council, may adopt a decision stating that restrictive tax measures adopted by a Member State concerning one or more third countries are to be considered compatible with the Treaties in so far as they are justified by one of the objectives of the Union and compatible with the proper functioning of the internal market. The Council shall act unanimously on application by a Member State.

#### Article 66

##### (ex Article 59 TEC)

Where, in exceptional circumstances, movements of capital to or from third countries cause, or threaten to cause, serious difficulties for the operation of economic and monetary union, the Council, on a proposal from the Commission and after consulting the European Central Bank, may take safeguard measures with regard to third countries for a period not exceeding six months if such measures are strictly necessary.