

The very essence of the internal market freedoms

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ABSTRACT: The guarantee of the *very essence of rights* is a well-known concept in the German tradition of rights' adjudication. The Court of Justice of the European Union has been influenced by the methods of control used by the German Constitutional Law in relation to restrictions to fundamental rights, and the Charter of Fundamental Rights has adopted some of the limits used therein. The article discusses whether the language of rights developed by the Court of Justice in relation to the internal market freedoms allows for the use of the guarantee of their essential core as a limit to State restrictions. Furthermore, it tries to define what should be taken as the inner core of fundamental freedoms. Attention is drawn to the relationship between the very essence of rights and the proportionality principle. The emphasis put by the Court on this principle shows that the inner core of the freedoms should come as a result of a balancing exercise between these and other compelling interests.

KEYWORDS: Fundamental rights, economic freedoms, internal market, non-discrimination, principle of proportionality

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