

Chapter 4 – Free Movement of Capital

The free movement of capital refers to the obligation of EU Member States to eliminate, with certain exceptions, all restrictions on the movement of capital and payments both within the EU and between Member States and third countries. The *acquis* is grounded in the Treaty on the Functioning of the EU, particularly Articles 63-66. The definition of free movement of capital is further outlined in Annex I of Directive 88/361/EEC. Additionally, the relevant jurisprudence of the European Court of Justice, along with the European Commission's Directives 97/C220/06, 2005/C293/02, 2017/C350/05, and COM(2018) 547, provide supplementary clarification to the aforementioned articles.

The primary legislation governing this area is Directive 2007/64/EC on payment services in the Internal Market (PSD), and its successor, Directive (EU) 2015/2366 (PSD2), which came into effect on January 13, 2018. These directives form the legal basis for establishing a single payments market at the EU level. PSD/PSD2 sets out a comprehensive framework for payment services across the EU. The aim is to ensure that cross-border payments are as efficient and secure as domestic payments within a Member State, while enhancing the rights of payment service users. PSD/PSD2 also seeks to foster competition by opening the payment markets to new participants, thereby encouraging greater efficiency and cost reduction. Additionally, the Directive provides the essential legal platform for the establishment of the Single Euro Payments Area (SEPA).

In the Republic of Moldova, the movement of capital is regulated by Law No. 62/2008 on currency regulation, which entered into force on January 18th. This law aligns with **Part Three "Community Policies"** of the Treaty establishing the European Community (consolidated version) and with the provisions of Annex I to Council Directive 88/361/EEC of June 24, 1988, implementing Article 67 of the Treaty. The law sets forth the general principles of foreign exchange regulation in the Republic of Moldova, outlining the rights and obligations of residents and non-residents regarding the foreign exchange market, including provisions related to foreign exchange operations involving capital, as well as the procedures for conducting such operations.