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Free Movement of Persons

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MINISTRY OF EDUCATION, YOUTH AND SPORTS

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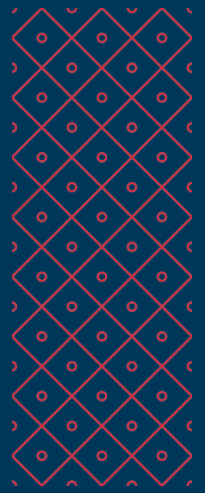


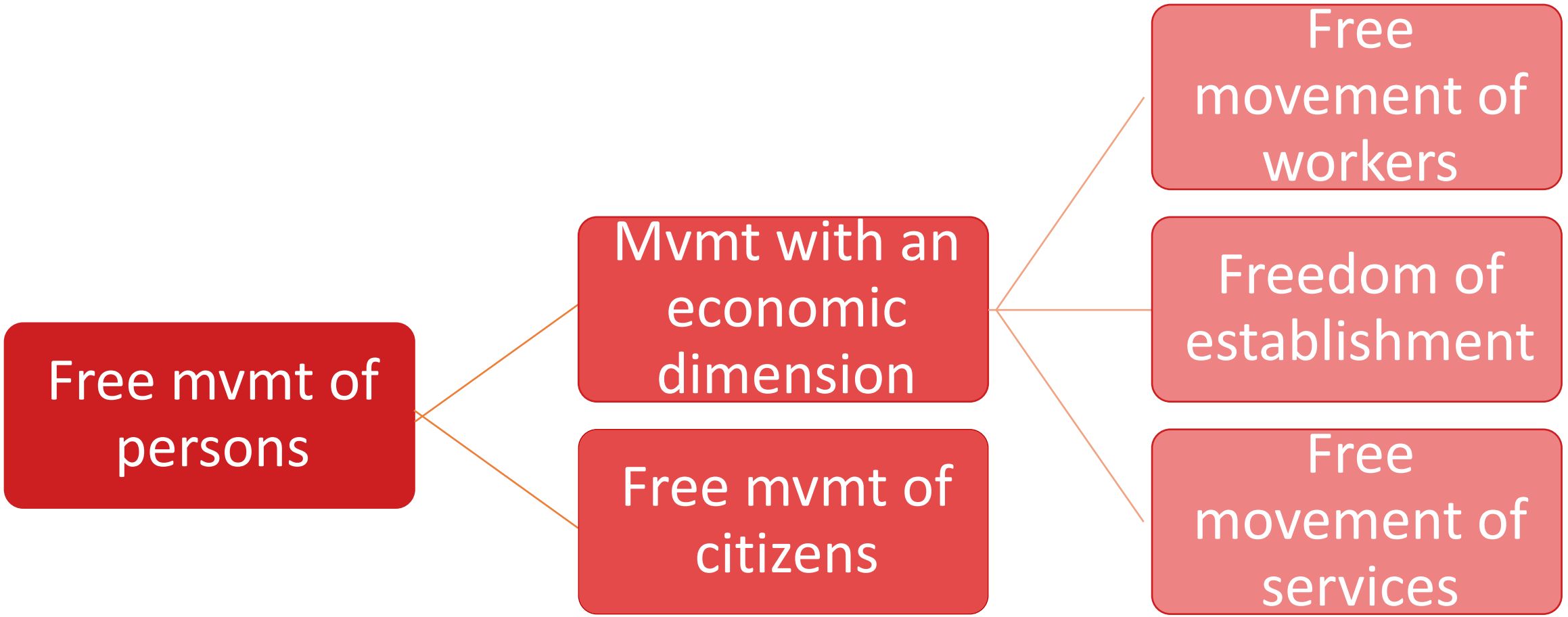
Chapter 1

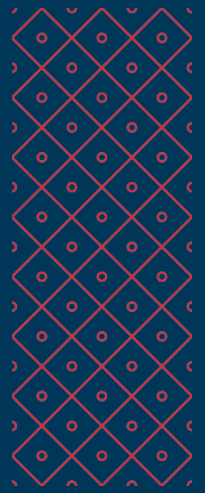
Free Movement of Persons

Free movement of persons

*Historically: the European **Economic** Community only allowed free movement of people in terms of the movement of "factors of production"*

*Maastricht Treaty: introduced **citizenship of the Union** and with it a status recognised by EU law independent of a person‘s economic activity*


Free mvmt of persons
Mvmt with an economic dimension
Free mvmt of citizens
Free movement of workers
Freedom of establishment
Free movement of services



Chapter 2

Application of Internal Market Rules

Application of Internal Market Rules

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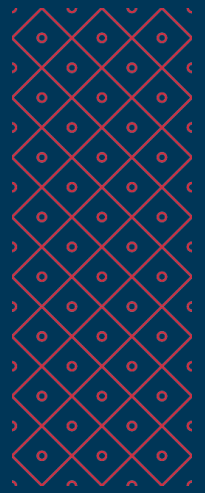
Directive 2004/38
(Citizenship Directive)

- Scope
  - Cross-border element
  - Defining features of a freedom
  - Do the general rules of the Treaties or the special rules apply?
- Restriction
- Justification
  - Legitimate aim pursued by the restriction
  - Proportionality test



Chapter 3

EU Citizenship

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EU Citizenship

EU legislature

- Art. 9 TEU
- Art. 18-25 TFEU
- Directive 2004/38/EC – Citizens‘ Rights Directive

Citizenship of the Union shall complement and not replace the national citizenship

Rules for becoming a citizen of the Union

Satisfying the criteria of national law

Citizenship of the Union

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https://www.shutterstock.com/

C-135/08, *Rottmann - facts*

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Janko Rottmann was originally an Austrian citizen who acquired German citizenship by naturalization and lost his Austrian citizenship at the same time. However, in violation of German law (probably fraudulently), he did not indicate on his naturalization form that he was being prosecuted in Austria. When the German authorities learned of this, they retroactively revoked his citizenship. He was thus to become an apatride.

Mr Rottmann brought an administrative action against this decision. The German court decided to ask a preliminary question in order to verify whether the possible loss of EU citizenship is covered by EU law.

C-135/08, *Rottmann - decision*

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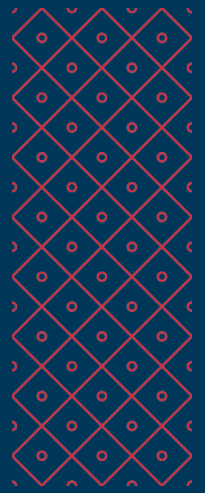
CJEU: *Deprivation of rights deriving from EU citizenship has consequences in terms of EU law, and the CS must respect EU law when exercising its powers. On the grounds of fraud, annulment of a naturalisation decision is legitimate but must comply with the principle of proportionality.* ***"In this respect, it must be verified in particular whether the loss is justified in view of the gravity of the unlawful act of the person concerned, the time elapsed between the decision to grant citizenship and the decision to revoke the act by which citizenship was granted, and the possibility for the person concerned to regain his or her original nationality."*** (C-135/08, *Rottmann*, paragraph 56.)



Chapter 4

EU Citizenship Rights

EU Citizenship Rights

Freedom of movement and right of residence

- Directive 2004/38/EC

Municipal elections and elections to the European Parliament

Petition to the EP, European Ombudsman, EU institutions

Right to the diplomatic and consular protection

Citizens' initiative

- Regulation 2019/788

Citizens‘ Rights Directive

Personal scope

- EU citizen exercising his right of FM
- Family members accompanying the EU citizen
- Automatic family members under Art. 2(2) Dir. 2004/38/EC
- Discretion for beneficiaries under Art. 3(2) Dir. 2004/38/EC

Right of residence

- Up to 3 months
- For more than 3 months – sufficient resources, health insurance
- Permanent residence

Literature

Barnard, C. (2025) – The Substantive Law of the EU: The Four Freedoms (8th ed., OUP)
Jaeger, T. (2021) – Introduction to European Union Law: Foundations, Institutions, Enforcement, Internal Market Rules (1st ed., Facultas)
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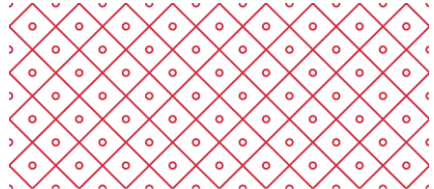
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