

JUDr. Jan Exner, Ph.D.

# Free Movement of Workers



Co-funded by  
the European Union



MINISTRY OF EDUCATION,  
YOUTH AND SPORTS

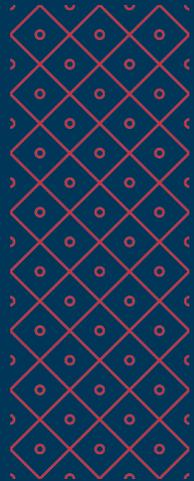


**Charles  
University**



# Content

1. Free movement of workers
2. Worker
3. Scope and rights
4. Exception and restrictions
5. Justification



## Chapter 1

# Free Movement of Workers

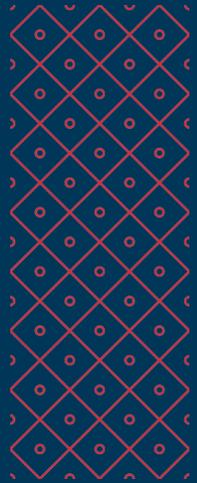


# Free Movement of Workers

Economic freedoms

EU legislature

- Art. 45 TFEU et seq.
- Regulation 492/2011 on freedom of movement for workers
- Directive 2004/38/EC – Citizens' Rights Directive (CRD)



## Chapter 2

# Worker



# Worker

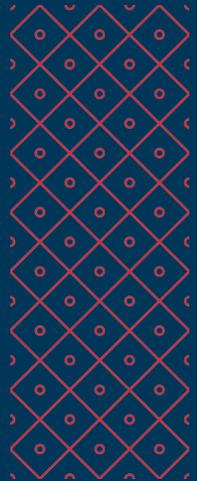
## Union concept

### 53/81 Levin

- Genuine and effective activity
  - Including half time jobs, professional sport, work for a religious society, statutory body etc.
  - X not activities without economic goal and purely marginal and ancillary

### 66/85 Lawrie Blum

- Under the direction of someone else (any legal form of employment as dependent work activity)
- Remuneration (including in payment kind)
- Proportionate in time (extremely short time jobs can be excluded upon assessment by national court applying EU law)



## Chapter 3

# Scope and rights



# Scope

EU element

Personal aspect

- Nationals of MSs, worker

Territorial aspect

- MSs and countries under the Art. 355 TFEU

Exception

- Transitional periods for new member states



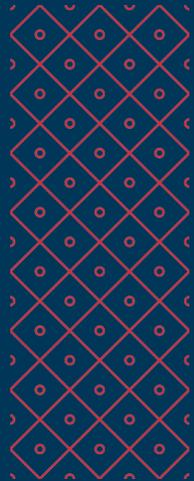
# Workers' Rights

To accept offers of employment actually made

To move freely and stay in a MS for the purpose of employment

To enjoy equal treatment with nationals

Social and tax advantages (e. g. public transport fare reductions for large families, child raising allowances, minimum subsistence payments)



## Chapter 4

# Exceptions and restrictions



# Prohibited Discrimination

Direct discrimination (Art. 45 TFEU) - based on nationality

Exception:

- Employment in the public service (66/85 Lawrie-Blum)
  - Direct or indirect participation to safeguard the general interests of the state
  - Special relationship of allegiance to the state (conferred special powers)

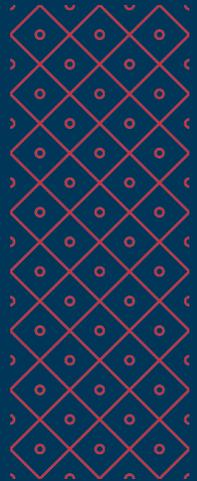


# Other Restrictions

## Indirect discrimination

Restriction = non-discriminative hindrance to free movement  
(C-415/93 Bosman)

- Any obstacle able to hinder the free movement or make it less attractive



# Chapter 5

## Justification



# Justification

## Art. 45 TFEU

- Public policy, public security or public health
- All forms of discrimination and restriction

## Overriding reasons of public interest

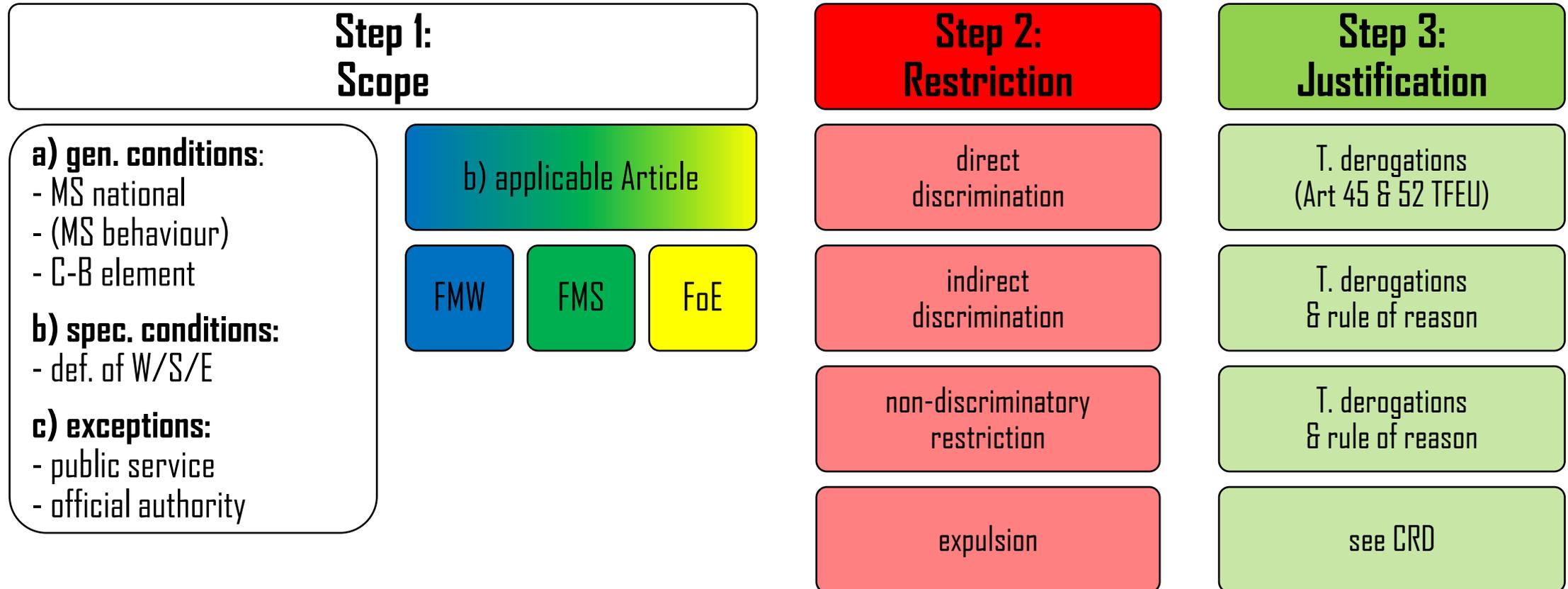
- Non-exhaustive list developed by the CJEU
- Indirect discrimination and restriction

## Proportionality

- Suitable to achieve the aim
- Does not go beyond what is necessary for such aim



# Free Movement of Persons





# 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)

Sufrin, B., Dunne, N., Jones, A. (2023) – EU Competition Law: Text, Cases & Materials (8th ed., OUP)



The project “ESF+ na UK“, reg. no. CZ.02.02.XX/00/23\_022/0008957,  
is supported by the [Programme Johannes Amos Comenius](#).

**Faculty of Law**  
nám. Curieových 901/7  
116 40 Prague 1  
[www.prf.cuni.cz](http://www.prf.cuni.cz)

 **Charles University**

