



# European Law

Czech Law in Global Context  
JUDr. Radovan Malachta, Ph.D.  
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# Why European Law?

- Czech Republic is a member of the EU
  - *Since when?*
- 27 members
- bound by the law that EU creates
- a direct influence on various aspects of our daily lives
  - *Examples?*

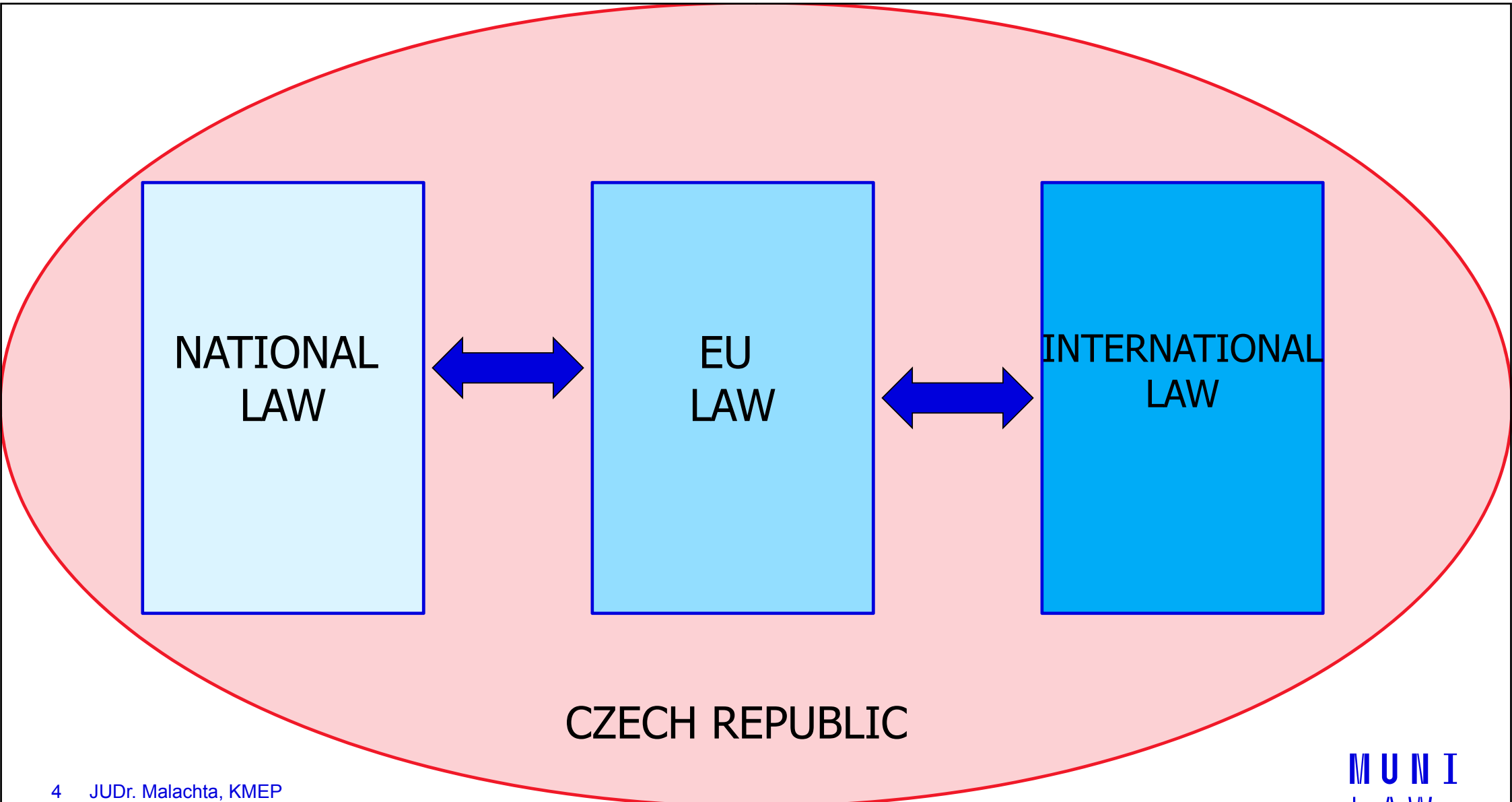


# How EU Law Affects Our Everyday Life



**The Right to  
Cancel a Contract  
Within 14 Days**





CZECH REPUBLIC

# The Nature/Essence of the EU

- EU is a supranational organization
- superior, „above“ the Member States
- Member States **VOLUNTARILY TRANSFERRED CERTAIN POWERS TO THE EU IN SPECIFIC AREAS**
  - EU exercise authority on their behalf in certain areas/fields – EU can create laws and rules
  - EU does not have authority in some areas – EU are free to set their own laws and rules

# The Nature/Essence of the EU

European Union

voluntary transfer of powers to the EU



Member States

customs  
union

competition  
rules

agriculture

enviroment

transport

industry

culture

education

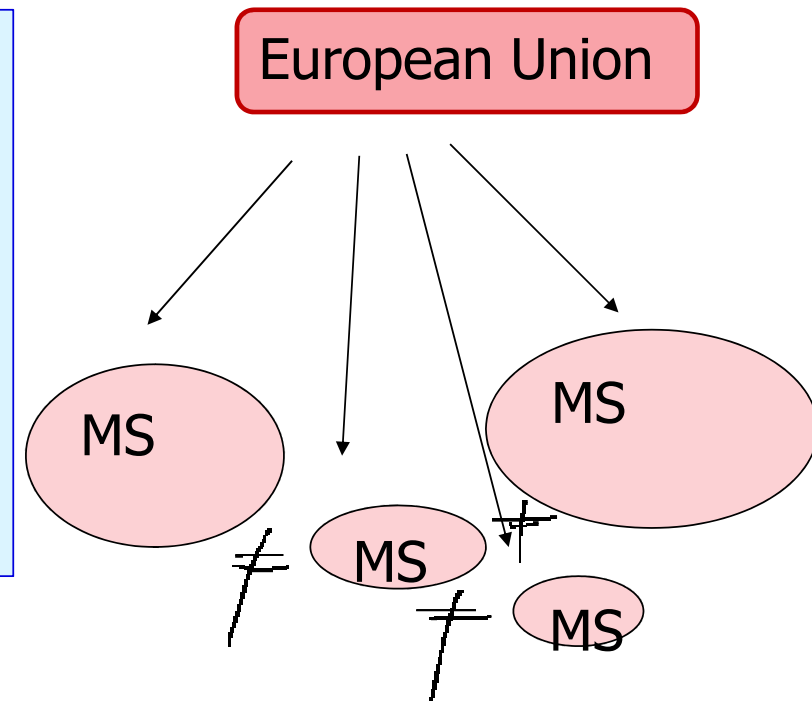
tourism

Etc.

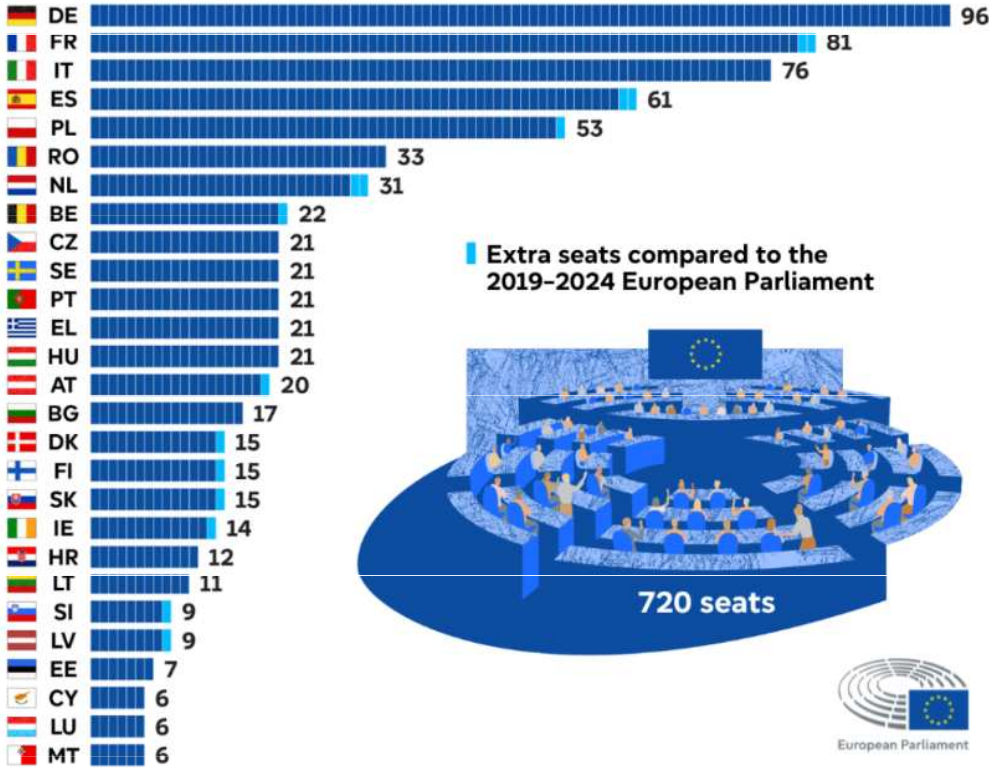
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# The Nature/Essence of the EU II

- inequality among Member States
  - MS are not equal to each other
- the decision-making bodies of the EU
  - European Parliament
  - Council of the European Union
- based on the population size of each state



# Distribution of seats per country in the European Parliament



Number of seats per country in the 2024-2029 legislative term of the European Parliament.



Member State	Weighting	Vote
 BELGIQUE/BELGIË	2,61	
 БЪЛГАРИЯ	1,44	
 CESHÁ REPUBLIKA	2,40	
 DANMARK	1,31	
 DEUTSCHLAND	18,72	
 EESTI	0,30	
 ÉIRE/IRELAND	1,15	
 ΕΛΛΑΔΑ	2,31	
 ESPAÑA	10,67	
 FRANCE	15,11	
 HRVATSKA	0,85	
 ITALIA	13,25	
 ΚΥΠΡΟΣ	0,20	
 LATVIJA	0,42	

Member State	Weighting	Vote
 LIETUVA	0,63	
 LUXEMBOURG	0,15	
 MAGYARORSZÁG	2,13	
 MALTA	0,12	
 NEDERLAND	3,99	
 ÖSTERREICH	2,02	
 POLSKA	8,37	
 PORTUGAL	2,33	
 ROMÂNIA	4,23	
 SLOVENIJA	0,47	
 SLOVENSKO	1,21	
 SUOMI/FINLAND	1,24	
 SVERIGE	2,34	
		

# How EU Legal Acts (Secondary Law) are adopted in the EU?

## – ordinary legislative procedure

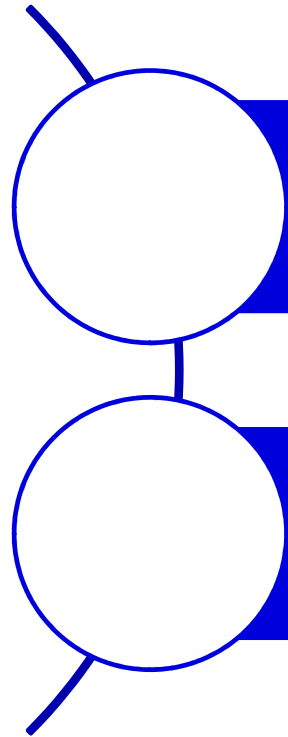
- **European Commission**: proposes a legal act
- **European Parliament** and **Council of the EU**: share decision-making authority
- European Parliament: a simple majority
- Council of the EU: a qualified majority – at least 55 % of MS vote in favour (15 out of 27) + these votes must also represent at least 65 % of the EU's population

## – special legislative procedure

- **European Commission**: proposes a legal act
- **Council of the EU**: adopts by a unanimous decision (all votes are in favour)
- European Parliament: may be consulted but does not participate

10 – **primary EU Law**: all Member States agree

# EU Law



Primary EU Law

Secondary EU Law

# Primary Law (at present)

- Form of international treaties – concluding between states
- **Foundational Treaties** (founding)
  - Treaty on European Union (TEU)
  - Treaty on the Functioning of the European Union (TFEU)
  - Charter of Fundamental Rights of the European Union
- **„Amendment“ Treaties**
  - Amsterdam Treaty
  - Nice Treaty
  - Lisbon Treaty
- **Budgetary Treaties**
- **Accession Treaties**
  - with a new MS

# Primary Law

- legal basis of the EU and its functioning, fundamental rules on which the EU is based
- international treaties
- **Treaty on European Union (TEU)**
  - 55 articles
  - defines the values and objectives of the EU, democratic principles, membership conditions (accession, withdrawal)
  - general provisions on the EU's external activities, common foreign and security policy
  - other matters (EU institutions, enhanced cooperation, etc.)
- **Treaty on the Functioning of the European Union (TFEU)**
  - 358 articles
  - sets out principles (EU competencies), internal policies and actions, association with overseas territories, external actions of the EU, institutional and financial provisions (EU institutions, budget)
- **Charter of Fundamental Rights of the EU**
  - protection of fundamental human rights and freedoms where EU law is applied

# Secondary Law



– is issued on the basis of primary law

THE LEGAL ACTS OF THE UNION

Article 288

(ex Article 249 TEC)

To exercise the Union's competences, the institutions shall adopt regulations, directives, decisions, recommendations and opinions.

A regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States.

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Official Journal of the European Union









































26.10.2012

A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

A decision shall be binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.

Recommendations and opinions shall have no binding force.

✓ Languages, formats and link to OJ

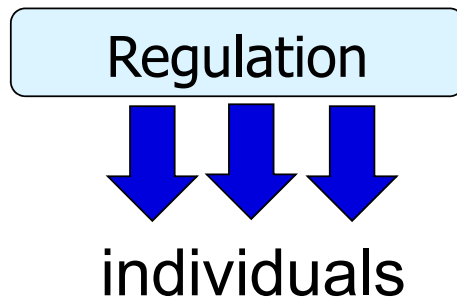
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# Regulation vs. Directive

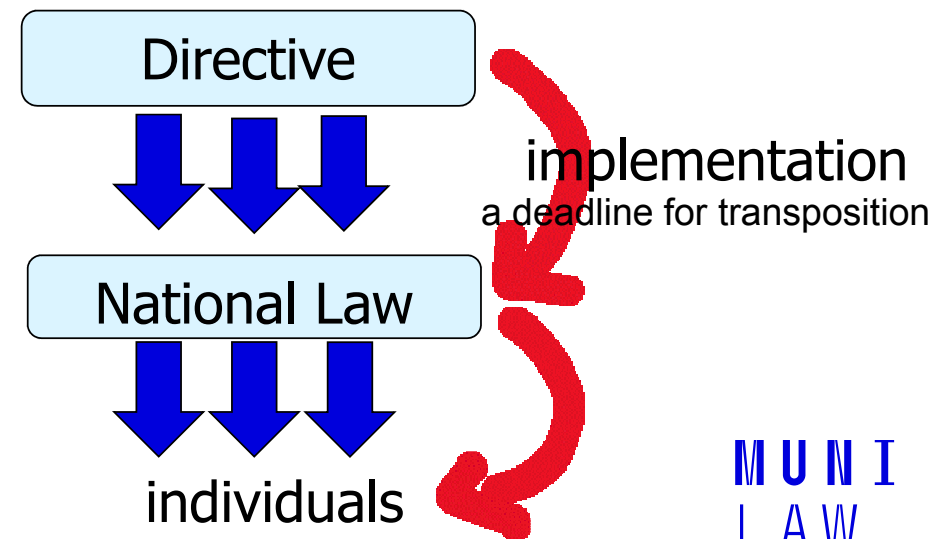
## REGULATION

- unification
- it binds MS, individuals
- directly applicable



## DIRECTIVE

- harmonization
- it binds MS
- it is not directly applicable



# Regulation

*„A regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States.“*

- **unification (standardization)** of EU law = the need for a uniform approach
- general scope = applicable across the entire Union
- binding in full = applicable to both member states and individuals, as well as EU institutions
- an individual can invoke the protection of their individual rights before the national courts of member states
- this typically applies where there are exclusive competences.
- it is not implemented into national law (e.g., into legislation) – the regulation applies directly

# Directive

*„A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.“*

- addressed exclusively to member states – they must implement it into national law
- transposition, implementation - a deadline is set for this (both transposition and implementation deadlines)
- **harmonization (approximation)** of national legal frameworks
- sets the result to be achieved (framework, principles, standards)
- the method of implementation (in the form of legal provisions) – MS
- this typically applies where there are shared competences, but also in areas of exclusive competence
- failure to implement properly and on time – violation of obligations by MS

# Decision

*„A decision shall be binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.“*

- similar effects to the Regulation
- sometimes addressed only to certain entities (MS, EU institutions)

# Recommendations and Opinions

- no binding force

# Categories and Areas of Union Competence

Exclusive competence

Shared competence

Support competence

# Exclusive competence

- (a) customs union;
- (b) the establishing of the competition rules necessary for the functioning of the internal market;
- (c) monetary policy for the Member States whose currency is the euro;
- (d) the conservation of marine biological resources under the common fisheries policy;
- (e) common commercial policy

— **only** the Union may legislate and adopt legally binding acts

— the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union act

# Shared competence

- (a) internal market;
- (b) social policy, for the aspects defined in this Treaty;
- (c) economic, social and territorial cohesion;
- (d) agriculture and fisheries, excluding the conservation of marine biological resources;
- (e) environment;
- (f) consumer protection;
- (g) transport;
- (h) trans-European networks;
- (i) energy;
- (j) area of freedom, security and justice;
- (k) common safety concerns in public health matters, for the aspects defined in this Treaty

- shared competence between the Union and the Member States
- both can adopt legal acts, with the primacy of EU law (MS can act where the EU does not wish to or has ceased to exercise its competence)

# Support competence

- (a) protection and improvement of human health;
- (b) industry;
- (c) culture;
- (d) tourism;
- (e) education, vocational training, youth and sport;
- (f) civil protection;
- (g) administrative cooperation

- to carry out actions to support, coordinate or supplement the actions of the Member States
- not binding acts



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# **EU Citizenship**

# EU Citizenship

- was formalized with the Maastrich Treaty in 1992
- a status conferred upon every individual who holds the nationality of a MS
- is additional to and not replace national citizenship
- EU citizens enjoy several rights and privileges – no obligations

2. Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Treaties. They shall have, inter alia:

- (a) the right to move and reside freely within the territory of the Member States;
- (b) the right to vote and to stand as candidates in elections to the European Parliament and in municipal elections in their Member State of residence, under the same conditions as nationals of that State;
- (c) the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;
- (d) the right to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the Treaty languages and to obtain a reply in the same language.

These rights shall be exercised in accordance with the conditions and limits defined by the Treaties and by the measures adopted thereunder.

# Citizenship

1. *Do you have EU citizenship? How did you acquire it?*
2. *You are a citizen of the Czech Republic. You move to France and have been living in the French city of Lyon for the third year. Could you be elected in Lyon's municipal elections and become a representative of the city?*
3. *You enjoy unconventional vacations and decide, as a citizen of the Czech Republic, to go on holiday to Benin (Africa), where you get arrested or lose your travel documents. You want help, but unfortunately, the Czech diplomatic mission is not in Benin; it's in Nigeria. However, you cannot get to Nigeria, especially without any documents. You find out that there is a French embassy in Benin. Can you seek its assistance?*
4. *As an EU citizen, you can move freely not only within EU member states but also in non-member states solely due to your EU citizenship. Is this statement true?*
5. *Can you contact the European Commission with an inquiry in Czech?*

# Right to move and reside freely within the territory of the MS

- DIRECTIVE 2004/38/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

# Three types of residence

– based on the length of stay in another MS

Right of residence for up to three months

Right of residence for more than three months

Right of permanent residence

# Short-term residence

- EU citizens - without any conditions or any formalities other than the requirement to hold a valid identity card or passport
- for stays of **up to 90 days**
- usually applies to tourists or individuals on short business trips
- it also applies to family members in possession of a valid passport who are not nationals of a Member State, accompanying or joining the Union citizen

# Temporary residence

- applies to stays that **exceed 90 days**
- is necessary to meet one of the three conditions
  - 1) be workers or self-employees person in the host MS; or
  - 2) have sufficient resources for themselves and their family members (not to become a burden on the social assistance system of the host MS) + have comprehensive sickness insurance cover in the host MS
  - 3) students under the conditions set out in the Directive
- it also applies to family members accompanying or joining a EU citizen who satisfies the conditions referred to in points 1, 2 or 3



# Permanent residence

- EU citizens who have resided legally for a continuous period of **five years** in the host MS (it also applies to family members)
  - continuity of residence shall not be affected by temporary absences not exceeding a total of six months a year
- enjoy full rights of residence and access to social benefits within the MS
- shall be lost only through absence from the host Member State for a period exceeding two consecutive years

# Family member means

- the spouse
- the partner with whom the Union citizen has contracted a registered partnership
- the direct descendants who are under the age of 21 or are dependants
- the dependent direct relatives in the ascending line

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**thank  you**