

Online Course EU Immigration Law for Judges

Date: Friday 22 January 2021

Time: 13.30 - 17.00 hrs CET

Teachers: Prof. dr. Tineke Strik, dr. Sandra Mantu and prof. dr. Tesseltje de Lange

Target group: Only immigration law judges working in EU Member States can participate. The course is – primarily - designed for judges who have between 2 – 5 year experience in migration law cases.

Costs: Participation is free of charge

Location: Online

Funding: This event is part of CIMIS (Citizenship, Migration and Security), the CMR's Jean Monnet Centre of Excellence work programme 2018-2021. CIMIS is funded by the Erasmus+ Programme of the European Union (contract number 599736-EPP-1-2018-1-NL-EPPJMO-COE).

Programme

13.30-13.35 hrs Welcome, getting online

13.35-14.35 hrs Family Reunification, prof. dr. Tineke Strik (Radboud Universiteit Nijmegen, Member of the European Parliament, Greens/EFA)

The lecture on the Family Reunification Directive will guide you through recent developments of CJEU case law and discuss some specific problem issues. We will analyse the implications of the judgements on public policy and fraud in the context of the directive, as well as on the requirements regarding income and integration. Moreover, procedural issues are highlighted, for instance related to time limits. The relation and coherence with the free movement rights and other instruments will be involved in these analyses. Furthermore, we will elaborate on case law on the right to family reunification of refugees, as laid down in Chapter V of the directive. In relation to this theme, we will discuss the right to family reunification for beneficiaries of subsidiary protection. They are excluded from the scope of the directive, but does the prohibition of discrimination nevertheless limit the discretion of the Member States? This question is now being assessed by the European Court on Human Rights.

14.35-14.45 hrs Break

14.45-15.45 hrs EU citizenship as a source of rights and legal protection for EU citizens and their family members, dr. Sandra Mantu (Radboud Universiteit Nijmegen)

Under EU law, EU citizens and their family members enjoy a privileged legal position. They can move to another EU state for work, study or leisure with very little formalities; they can enter other EU states by simply producing a valid ID card or passport. They can reside there for an initial period of three months without meeting further conditions, the right to reside becomes conditional after this initial period of 3 months. The host state must allow entry and according to EU law it has limited powers to reject entry or terminate residence. Moreover, EU citizens enjoy equal treatment with nationals of the host state. This privileged treatment extends to family members of EU citizens irrespective of their nationality. The European Court of Justice has clarified that Directive 2004/38 provides for a right to enter and reside for third country family members of EU citizens.

As the number of EU citizens who make use of their EU rights increases, national administrations are increasingly called to apply EU citizenship and free movement provisions as a matter of daily activity. A sound knowledge of EU citizenship law and its correct interpretation in line with the jurisprudence of the European Court of Justice is necessary to ensure that the rights of EU citizens are respected at the national level. In this part of the course we examine three broad topics in relation to which the European Court of Justice has been called to provide guidance on the correct interpretation of EU law. These topics are:

- TCN family members of EU citizens and their rights under EU law (Banger, Coman, S.M, Bajratari, Deha-Altiner & Ravn, R.H., Chenchooliah)
- The intersection between EU citizenship and state nationality (Lounes, Tjebbes)
- The conditional nature of the right to reside and the growing importance of retaining worker status or self-employed status (Daknevičute, Tarola, Gusa)

15.45-15.55 hrs Break

15.55-16.55 hrs Labour and Student Migration, prof. dr. Tesseltje de Lange (Radboud Universiteit Nijmegen)

Labour and student migration make up a substantial part of the migration into the EU. Although working life is likely to change due to the COVID-19 pandemic, there will always be a need for some labour migration and it is hard to imagine student migration would disappear from the field of international education. Five European Directives on Labour and Student Migration have entered into force since 2004 (Blue Card Directive, ICT Directive, Seasonal Workers Directive, Single Permit and Equal Treatment Directive, and the recast Students & Researchers Directive). The EU Member States remain entitled to set volumes of admission under article 79(5) TFEU, which some indeed do. In addition, there is the Employer Sanctions Directive designed to fight the illegal employment of illegally staying migrants. Only five cases dealing with legal questions on the interpretation of these Directives were brought before the CJEU. What lessons can be learned from these (and other) cases on the interpretation of these Directives? This lecture introduces the Directives, their scope and key dilemma's for judges. We analyse example cases in light of the Directives and the CJEU case law and debate possible future references to the CJEU to work towards implementation and harmonisation of EU standards on Labour and Student Migration.

Each part will start with a plenary session, after which the groups of participants will be subdivided into smaller groups to discuss recent case law. The outcome of the discussions will subsequently be discussed in the plenary session.

In order to prepare for the online sessions, participants will be asked to watch three videos of half an hour on the three different topics. These videos will be made accessible in the week before the course. Furthermore, participants are asked to consult the digital reader that the lecturers will compile for the course.