Workshop

European Citizenship and Equality: A Citizenship of Unequals by Law?

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General outline
The workshop will cover the legal-political essence of the notion of European citizenship and concentrate on the practical use of the rights associated with it by the citizens of the Union. A special focus will be on the role played by citizenship in the context of the new non-discrimination law developments in the EU and, especially, the outline of the possible future developments of the EU non-discrimination legislation.

What is European citizenship? How different is it from the nationalities of the Member States? What is its practical use as a source of rights for European citizens? Does it contribute to the gap existing between the rights of those who are and who are not in possession of a nationality of one of the Member States? What is EU citizenship’s ultimate effect on the nationality of the Member States? How does it contribute to the shaping of the idea of equality among all Europeans? From discussing the specificity of the concept of European citizenship we will move towards the rights of the European citizens under the EC Treaty and secondary legislation focusing on non-discrimination rights. A particular emphasis will lie on the non-discrimination on the basis of nationality and gender/sex discrimination. Both areas are likely to see rapid developments in the nearest future which the participants of the workshop will be invited to anticipate.
The workshop is mostly built around the legal sources, rather than secondary literature, focusing on the critical assessment of the case-law of the European Court of Justice (ECJ) and other relevant courts, shedding light on the meaning of citizenship and equality in the European Union, as well as the relevant Secondary law. The ultimate aim of the work shop is to tackle the tandem of legal concepts – citizenship and equality – using the law itself as the main source for analysis.
The students will gain the skills of working with the case-law of the European Court of Justice and will critically analyse the legal developments in the most dynamic areas of European law. Having basic background in European law/policy is an asset for those who will attend the seminar, although it is not required.
Workshop structure and basic requirements
All the students are expected to read all the case-law and legislation assigned for every class to be able to analyse the arguments used by the Court in every case and have a clear idea of the issue of every case. Those interested in learning more about the legal developments in the fields of EU citizenship and equality law are also invited to read the academic articles put on the additional reading list. Every session of the workshop will consist of the discussion of the main legal developments stemming from the cases and legislation read in advance. Besides the cases and legislation to be discussed in class (all available for free download at the EurLex portal), students are expected to have on them the latest consolidated versions of the EU and EC Treaties (also available at EurLex). Active participation and the knowledge of the assigned materials are required. Given the amount of reading students are expected to start the preparation to the workshop well in advance. Final assessment is made based on a five-pages-long paper providing a critical analysis of one of the cases or pieces of legislation which we discussed in class.

Detailed workshop plan

**DAY 1. SESSION 1: THE IUS TRACTUM NATURE OF EUROPEAN CITIZENSHIP**

a). European citizenship and nationality of the Member States
International Court of Justice Nottebohm (1955) ICJ Reports 4;
Opinion of Tesauro AG in Case C-369/90 Michelelli [1992] ECR I-4239;
Case 21/74 Jeanne Airola v. Commission [1975] ECR 221;

b). Citizenship and ratione materiae of Community law
Joined cases C-55/82 Elistena Esselina Christina Morson v. State of the Netherlands and Head of the Plaatselijke Politie within the meaning of the Vreemdelingenwet and C-36/82 Sveradjie Jhanjan v. The Netherlands [1989] ECR 3723;
Case C-403/03 Egon Schempp v. Finanzamt München V [2005] ECR I-6421;
C-60/00 Mary Carpenter v. Secretary of State for the Home Department [2002] ECR I-6279

c). Citizenship and ratione loci of Community law
Case C-171/96 Rui Alberto Pereira Roque v. His Excellency the Lieutenant Governor of Jersey [1998] I-4607;
Joined cases C-100 and 101/89 Peter Kaefer and Andréa Proacci v. France [1990] ECR I-4647.

d). Citizenship rights vs. nationality-related obligations
DAY 1. SESSION 2: EARLY CITIZENSHIP-RIGHTS DEVELOPMENTS

a). Pre-citizenship developments relevant for citizenship rights

b). Advocates’ General optimism with regard to citizenship

c). Citizenship vs. free movement of services in the mutation of the scope ratione materiae of Community law
Case C-193/94 Criminal proceedings against Sofia Skanavi and Konstantin Chryssanthakopoulos [1996] ECR I-929;
Case C-85/96 María Martínez Sala v. Freistaat Bayern [1998] ECR I-2691;
Case C-348/96 Criminal proceedings against Donatella Califà [1999] ECR I-11;
C-60/00 Mary Carpenter v. Secretary of State for the Home Department [2002] ECR I-6279.

d). Citizens’ free movement
Case C-408/03 Commission v. Belgium [2006] ECR I-2647;
Case 48/75 Jean Noël Royer [1976] ECR 497;

DAY 2. SESSION 1: LATEST DEVELOPMENTS IN THE FIELD OF EU CITIZENSHIP

a). Critical assessment of the limitations inherent in the ius tractum nature of European Citizenship
Case C-456/02 Michel Troyani v. Centre publique de l’aide sociale de Bruxelles (CPAS) [2004] ECR I-7573.

b). Latest citizenship case-law of the ECJ
Case C-274/96, Criminal proceedings against H. O. Bickel and U. Franz, [1998] ECR I-7637;
Case C-184/99 Rudy Grzelczyk v. le Centre public d’aide sociale d’Ottignies-Louvain-la-Neuve [2001] ECR I-6193;
Case C-200/02 Kungian Catherine Zhu and Man Lavette Chen v. Secretary of State for the Home Department [2004] ECR I-9923;
Case C-209/03 R. (on the application of Danny Bidar) v. London Borough of Ealing, Secretary of State for Education and Skills [2005] ECR I-2119;
Opinion of AG Geelhoed in Case C-209/03 Bidar [2005] ECR I-2119;
c). Focus on political representation
ECtHR Hirst v. UK (No. 2) [2005] Appl. No. 74025/01
Case C-145/04 Spain v. UK [2006] ECR I-7917

DAY 2. SESSION 2: PERSONAL STATUS AND NON-DISCRIMINATION ON THE BASIS OF NATIONALITY

a). Directive on Third-country nationals who are long-term residents

b). ECJ’s case-law on the interpretation of Article 39 EC
Case 75/65 Mrs M.K.H. Hoekstra (née Unger) v. Bestuur der Bedrijfsvereniging voor Detailhandel en Ambachten [1964] ECR 177;
Case 44/65 Singer [1965] ECR 965;

c). ECJ’s case-law on the interpretation of Article 12 EC
Case C-147/91 Criminal proceedings against Michele Ferrer Laderer [1992] I-1097;

DAY 3. SESSION 1A: NON-DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION

a). ECJ case-law
Case C-249/96 Lisa Jacqueline Grant v. South-West Trains Ltd. [1998] ECR I-621;
Case C-117/01 KB v. National Health Service Pensions Agency, Secretary of State for Health [2004] ECR I-541;

b). Position taken by other jurisdictions
ECtHR Kerner v. Austria [2003] App no 40016/98;
ECtHR Fretête v. France [2002] App no 36515/97;
ECtHR Grant v. UK [2006] App no 32570/03.

c). Equality directive

DAY 3. SESSION 1B: WRAPPING UP: WHAT FUTURE FOR EUROPEAN CITIZENSHIP?
Additional reading list
Boeles, P., ‘Europese burgers en derdelanders: Wat betekent het verbod van discriminatie naar nationaliteit sinds Amsterdam?’, Sociaal-economische wetgeving, no. 12, 2005, 502;
Davies, Gareth, ‘“Any Place I Hang My Hat?” or: Residence is the New Nationality’, 11 Eur. L.J. 1, 2005, 43;
Kocheno, Dimitry, Gay Rights in the EU: A Long Way Forward for the Union of 27, 3 Croatian Yearbook of European Law and Policy, 2007, 469;